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THE
TRIALS,
AT LARGE,
OF

W. HENRY TURTON, and LUKE WEST,
For the MURDER of CHARLES GUTHERSON,
In the Parish of CHATHAM;

WILLIAM ROALFE, for the MURDER of RICHARD
BARKER, one of the Dragoons, at *Whitstable*;

THOMAS BLITHE, for the MURDER of THOMAS
YILDER, at *Woolwich*;

And ROBERT BUTLER, for the MURDER of JAMES
NELSON, at *Woolwich*.

Who were severally indicted at the Assizes held at MAIDSTONE,
on MONDAY, the 7th of AUGUST, 1780. before Sir JAMES
EYRE, Knt. one of the Barons of his Majesty's Exchequer;

As taken in SHORT HAND, under the Authority of the COURT,

by WILLIAM BLANCHARD.

TO WHICH IS ADDED,
A LIST of the other PRISONERS,
TRIED AT THAT ASSIZE.

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THE
TRIALS
AT
LARG

OF

W. HENRY TURTON, and LILLIE WISE,
for the MURDER of CHARLES GUTHRIE;
in the County of CHATHAM;

WILLIAM ROALFE, for the MURDER of RICHARD
BARKER, one of the Prisoners, at Newgate;

THOMAS BLITHE, for the MURDER of THOMAS
YIELDER, at Newgate;

And ROBERT TULLER, for the MURDER of JAMES
MILLSON, at Newgate.

Rec Nov 22 1906

Who were lawfully indicted and arraigned by the Magistrate,
on Monday the 15th of August, 1831, before the Hon. Mr. Justice
LORD, one of the Justices of his Majesty's High Court of Law
and Equity, in the County of Middlesex, at the Old Bailey.

And the said LORD, after reading the several indictments,
did pronounce the said W. HENRY TURTON, and LILLIE WISE,
to be guilty of the Murder of CHARLES GUTHRIE;

And the said LORD, after reading the several indictments,
did pronounce the said WILLIAM ROALFE, to be guilty of the Murder
of RICHARD BARKER;

And the said LORD, after reading the several indictments,
did pronounce the said THOMAS BLITHE, to be guilty of the Murder
of THOMAS YIELDER;

And the said LORD, after reading the several indictments,
did pronounce the said ROBERT TULLER, to be guilty of the Murder
of JAMES MILLSON;

The TRIALS at large, &c.

NAMES of the JURORS.

Charles Baker,	Thomas Hadlow,
John Austen,	Richard Robson,
Richard Bailey,	John Scott,
John Collar,	Joseph Burrell,
John Chapman,	Thomas Thurston
Edward Dering,	Thomas Francis.

WILLIAM HENRY TURTON, and LUKE WEST, gent. were indicted for the Wilful Murder of Charles Gutherson, on the 14th of April, in the parish of Chatham, in the county of Kent.

Francis Steele Bond sworn.

Q. Where do you live? In Chatham.

Q. What trade are you? A linen draper.

Q. Relate what you know of the death of Charles Gutherson? On Friday, the 14th day of April, between the hours of 3 and 4 in the afternoon, as I was standing by my own door—

Q. Describe exactly where you were standing? I was standing exactly against my own door.

Q. Do you mean in the shop or out of it? Out of the shop. I was standing with my back leaning against one of my shop windows.

Q. In the street? In the street.

Q. Do you mean the shop window, or further on? It must be next the door; there is nothing but the door post parts the window. I was looking up the street, and saw three officers belonging to the navy, as I thought, and three sailors; one of the men seemed to be rather more in liquor than the others.

Q. You saw the prisoners at the bar, and the

sailors? Yes; there was one person unknown. I don't know what his name is, neither could I find out; they seemed to shove this man forward, as if they wanted him to go along. The men came forward.

Q. You saw the deceased much in liquor? The man was very much in liquor; he came on a little way towards my house; this was in the space, I believe, of 30 or 40 yards from my house. There were some steps leading up to some houses, opposite the Ship alchouse, which the deceased went up; it was with much difficulty that he got up, being so much in liquor. He was followed by the prisoners at the bar, and this other person, whom I before mentioned; his name was not known; the other person came up to the man, took him by the collar, in this manner, (describing that he took hold of the coat near the collar, on the right hand side) turned him round, and dragged him towards the top of the steps that he before went up.

Q. Is there a platform on the top, and is it broad? There may be 6 or 7 steps that lead up to the three houses, which stand rather upon a bank.

Q. Was the deceased got up to the door of the houses? No, he had got a little way beyond the top of the steps. They brought him back to the top of the steps, and there made a push at him, to shove him down, the deceased got hold of the rails.

Q. What rails? There are pales for fear children, or any body else should fall down; he caught hold of them; the prisoner at the bar endeavoured to loosen him, by taking his hands away, which he effected; he was shoved down into the street, and fell with his

head upon the kirb stone, and lay upon his back: but by the assistance of his ship mates, was lifted up.

Q. Who do you call his ship-mates? Two other sailors that were along with him: Turton had a cane, and Luke West had a stick; whether this is it I cannot say, (*producing a supple jack, about the size of a finger*) as I did not find it: it was given to me the night before I came over here; whether this was it or not, it was some such a stick, West and Turton laid on in an unmerciful manner, over the face and eyes, and wherever they could hit him.

Q. Laid on upon whom? Laid on upon the deceased; they kept on beating, one with the hand, the other with the stick some time; and Turton, whether his hand was shut or not, I cannot say, but he struck the man upon the stomach, the man fell backwards in the road, across the road at least, in the street: he was again lifted up by the help of his ship mates, and they lay on as before, with the stick and cane.

Q. Who do you mean by they? The prisoners, Turton and West; after a long time beating by West, the stick which he had, was broke, and with the piece that was left, he took it, and jobbed it just on his right temple.

Q. What did he do? After that he had beat him some time, West with a stick, the pieces of which he had left—

Q. Why do you say pieces? Because it was broke.

Q. Did you see it broke? Yes, I saw it broke: he thrust it in his face, which caused the blood to issue from his temple: he then withdrew from the deceased.

Q. Where did he go to? This was done in the middle of the road; he then left the man, and came upon the kirb, the space of five or six yards; Turton kept on with the stick some little time after West had left him, I went up to West.

Q. Before you talk of going up to West, had you continued where you was, leaning against the windows all the time? No, not all the time, after seeing of Turton knock the man down, I then made up towards them.

Q. Why did you not mention that in the course of your narration? At what time was it that you first moved from the place where you stood at first? What part of the business was it you first moved from the place where you were leaning? At the time Turton knocked the man down.

Court. You never told me Turton did knock him down? Yes, I did.

Q. Do you mean when he struck him upon the stomach? When he struck him upon the stomach, I advanced towards him.

Q. How near did you come? I was within, I believe, the space of five or six yards, when he thrust the stick in his face.

Q. When West did? When West did; I had then advanced up to West, as I mentioned before; I told him I thought he might have been contented with ill-using the man as he had done before, without thrusting the stick in his face; I thought it rather savage behaviour.

Q. Was this while Turton was continuing striking him? Turton was continuing striking him.

Q. You told him you thought he might have been contented with what? With beating the stick to pieces, without thrusting of it in his face.

Q. You thought it was rather savage behaviour, you say? Yes, and that it was no wonder his majesty wanted men, if they were used in such a manner. Turton kept on beating him, he likewise left the man, after some little time, it might be half a minute or more, I cannot say exactly to the time he left the man.

Q. Before you had said this to West, or after? After.

Q. Did West make any answer? I dont recollect he did.

Q. Then you say Turton left him? Turton left him, came up to West, and took West's sword.

Q. How far was West from Turton, when he came up to him in that manner? He was the space of six yards from the man, when Turton took West's sword, and then went to the deceased again.

Q. Had he no sword? No sword of his own.

Q. In what manner did he take the sword, in the scabbard, or how? I was so flurried at the time, I cannot say where he took it from.

Q. I am asking you? I cannot say, I will not say; the sword was hanging by West's side, whether he took it from the scabbard or not, I cannot tell.

Q. You was not close by West then? No, there were two or three people close to the house, at the time; I cannot say whether he drew it out, or whether West drew it out; the people standing between us, prevented my seeing.

Q. What did you see next? He then went to the deceased with his sword naked, and hit him, first upon the right side of the body, then

on

on the left, and struck him three times over the head: the man fell to the ground, he was rather leaning upon his elbow, and laying upon his thigh; he then run the sword into his right breast, at least by his right breast.

Q. Did you see that? I saw the point lay upon the man's breast before it went in.

Q. Describe the manner of it? *Witness.* Shall I draw it out, (*holding the sword in his hand, which he produced in court.*)

Court. No, you need not draw it out, describe the manner. *The witness held the sword in a horizontal direction, pointed to his right breast, and said it was in this manner.*

Q. Had Turton the sword by the hilt? Yes, he struck him with his right hand, and as the deceased stood fronting me, I could only see the point of the sword go in; but whether he had it in his right hand or left I cannot say.

Q. Then you saw the point of the sword go into the man's breast, but how it was held you cannot say? I cannot.

Court. What do you mean by saying you saw the point lay against his breast? I could perceive the point of the sword, but I could not perceive the hilt in his hand; that was what I meant when you asked me whether I saw it thrust into his body, I said I did.

Q. You said first the prisoner ran the sword into his right breast? Yes.

Q. Now, when you come to explain yourself, you cannot take upon you to say, who run the sword into his breast? O yes; I am sure he run it in.

Q. You cannot say which hand he held it in? No.

Q. Nor did you see the hand move? I saw the point move: I did not see the hand: I cannot say which hand: I saw the sword go into his body.

Q. How much time might there have been between your seeing Turton's strike the man, and seeing the point of the sword go into the man's body? After you saw him strike, how long was it before you saw the point of the sword enter the man's body? I really cannot say: I thought the time he had it, it was almost as quick as possible it could be done; he first took him on the right side, then on the left, and struck him three times over the head.

Q. The man fell, and he thrust the sword into the man's body? Immediately.—Immediately I perceived the sword come out, all over blood.

Q. Was the sword withdrawn or pulled out immediately? As soon as it could be; it did not remain in long.

Q. All over blood? All over blood the point was, and by what means I cannot say; it came out of his hand, and fell with the point towards me; in this manner, in the street (*holding the point towards himself*) after it was drawn out of his body.

Q. You could not see whose hand it was in when it was drawn out of the man's body? I perceived it was in his hand.

Q. In which hand? I will not pretend to say which hand.

Q. Can you be sure it was in his hand? I am very certain it was in one of his hands; at such a time, as that I did not take particular notice in which hand.

Q. If there were people between you, so that you could not see which hand it was in, are you quite sure it was in his hand, and no other person's? I am very certain it was in his hand, it was so short a time from its being put in, to its coming out.

Q. Then you saw the sword fall? Yes; by what means I cannot say; but it came behind Turton, and fell with the point towards me: I was standing upon the kirb stone of the foot pavement, and Turton was standing with his back towards me; one of the sailors who was in company, took the sword up by the hilt and held it to me.

Q. Who do you mean? One of the sailors in company; his name, I think, is Cazely; he took the sword from the ground as it lay, and held it to me, it being all over blood. I did not chuse to take hold of the point, and I was not quite near enough to take hold of the hilt; West took it from the sailor, who wiped it upon the thighs of his breeches, and put it into the scabbard; Turton then left the deceased laying upon the ground.

Q. What became of West? West came upon the footway, and Turton likewise; the deceased, by the assistance of his shipmates, was lifted up; he stood upon his legs, and walked towards the Ship alehouse door; he reited himself with his back leaning against the door post that leads into the house, and fell into the entry that leads into the house.

Q. How soon? I cannot say as to the time, it was instantly done; as soon almost as he reited against it, he fell into the entry, and there was a loud clamour of people round. I went up to Turton, who was standing by the right hand window of the Ship alehouse, and said, You must go along with me; he answered, Don't your eyes, you may go along with me, if you will.

Q. Do you give me the words as he used? Yes. I took

I took hold of the top of his waistcoat or jacket, or whatever they call it, and said, You must go along with me.

Q. Took hold where? Just close by the collar. I led him off a little way, and deliver'd him to one of the neighbours that was standing by, and told him to take care of him, and I would go back and fetch West: I went back, and said to Mr. West, I must have that sword; he said, Take it all together, and unhooked it from his side. I then went up to the Mayor with them.

Q. What did you do as to Mr. West? I kept by the side of him; and the person to whom I delivered Mr. Turton went forward with him, and we followed them up to the Mayor.

Q. West followed? West and I followed Turton, and the man along with him.

Q. You don't seem to have offered to lay hold of West? West behaved in that civil manner, I could do no otherwise.

Q. You tell me you said you only desired to have that sword? I said, he must go along with me.

Q. You did not say that before, did you say that? I said that, and he said he would go along with me.

Q. Then you walked by his side, up to where you left the man with Turton? Yes.

Q. Then you all went to the mayor? The mayor was not in the way, we then took them across the way to Mr. Spice; after that he had related the matter to him, he said, you have nothing else to do but to get bondsmen for your appearance; I then took them to the gaol, and secured them.

Q. That is all? That is the whole relating to that, till I returned, and found the man dead.

Q. You found the man dead?

Court. Did you look at the body, to take notice what injury he had received? Yes.

Q. Relate what you observed? I perceived the wound in his breast, and that his head was very bloody, and his right thumb nearly cut off.

Q. Is that the whole of your observations? That was the whole.

Q. Did you take notice whether the blood upon the head proceeded from the wounds upon the head, or might it, from the position of the body, have run from the wounds in the breast? No, when I came back, they had got him up in the entry, he was sitting upon his breech.

Q. The man was dead? The man was dead.

Q. Was he put in that posture after he was dead? There were no hopes of him; Mr.

Blackstone said, he thought it was all over with him.

Q. He thought he was either dead, or just expiring? Yes, he looked as though he was dead: I saw no more till the jury came.

*Cross Examination by Mr. ROBINSON,
Counsel for the Prisoner.*

Q. You say, you saw the three sailors and the two young men you mentioned, coming up the street to Rochester? I have told my Lord, and the gentlemen of the jury.

Court. You are to answer every question in a direct manner.

Witness. He was coming along the street to Rochester, was within its liberty.

Q. Were they going towards Chatham towards the ships? They were.

Q. You say, they were shoving him along? There seem to be a squabbling between them.

Q. Did you not think they were endeavouring to get him towards the ships? I could not tell.

Q. You guessed what they belonged to? I supposed they belonged to a ship, seeing them to be sea officers.

Q. You have spoke to Mr. West by name, did not you know him? I did not.

Q. How then did you know his name? By hearing him examined afterwards by the Coroner.

Q. You have repeated during this examination, that you called him by his name. My lord asked me which of them.

Q. You say, Mr. West gave up the sword; you spoke of him repeatedly? My lord wanted to know which of them: If my lord asks which, I must relate, I did not know their names till they came to be examined.

Q. You did not know them at all? I don't know that I ever saw them before.

Q. Living at Chatham you know enough, to know they had midshipmen's habits on? Something of that sort they had.

Q. Did not you believe by their conduct, they were doing their endeavours to get this man to his ship? I could not tell what they were a going to do with the man.

Q. You have not been asked, but you might have an opinion, what from the appearance seem to be the case? I cannot say what might be the case.

Q. You cannot form any judgment about it? Not what they were about, nor could I tell what they meant; I could perceive a sort of bustle among them all.

Q. You did not at all guess, they were endeavouring

deavouring to get this man towards his ship? I did not know where they were endeavouring to get him to, I perceived they were shoving him along; where they wanted him to go, I could not tell.

Q Did not you form a judgment from the whole of the circumstance? I could not tell what judgment to form, no farther than I saw there was a squabble.

Q You say they were shoving them along? Yes, they seem to shove this man more than the rest.

Q If they were shoving him along, they were shoving him for some purpose? So they might.

Q You don't know for what? I cannot say for what—

Q The sailors went up some steps? Yes.

Q Did they two endeavour to get him down, did not that seem to be part of the same thing? They seemed to want to get him down.

Q And he went there to stop and not to go along with them? I could not tell, the man seemed when he got up on the top of the steps to lift and shrug his shoulders.

Q You said something about this man's being knock'd down? He was knock'd down in the road.

Q If I understand you, he fell by a blow with the fist? Whether it was his fist, I could not see, or whether his hand was open, he struck him in the breast.

Q You say he was knock'd down by the hand of Turton? Yes.

Q You mean this sailor, was this sailor a man of common size? Yes.

Q Look at that lad there, the least of the prisoners is Turton? Yes.

Q Do you mean to say, this stout sailor was knock'd down with a blow of the fist of that young man, the least of the two, not knowing whether it was doubled or not? I will not say that.

Q Knock'd down? Knock'd down, or shov'd down.

Q He fell down? He did.

Q You mean to say, whether his hand was open or shut you cannot tell, but he knocked the sailor down? The man fell by the struggle or what you call it.

Q I call it what you called it, you called it a blow upon the stomach, with his hand open or shut? Yes.

Q You mean to say, he fell down by a blow from that lad? Yes.

Q Now, Sir, you speak to Turton's taking the sword from West; but you have not told us any thing of Turton being knocked down by that man? No, I did not perceive that he was knocked down.

Q Do you now, undertake to say, you had not before that, seen Turton knocked down? I did not see him knocked down.

Q Do you mean to say you could see the whole of the transaction? I saw so far of the transaction as I tell you, and tell you so far as I saw.

Q Do you mean to say, you was so placed as to see the whole? The whole of what I saw, I mean to say.

Q Then you don't mean to deny, but their might be parts of the transaction you did not see? Their might.

Q Now, Sir, you went up to Mr. West with the stick, why did you not go up to Turton when you saw him take the sword, and take it from him? Would you like to face a man with a naked sword?

Q It was a boy? Well a boy then.

Q You faced him before with the sword in the scabbard? Yes.

Q Were you so afraid of that lad that you would not go up to him and you behind him? I was behind.

Q Another thing you told us, that when he took the sword from West, you did not know whether it was in the scabbard or not? I will not say.

Q Then he had not a drawn sword when you saw it? I certainly could see when it was out of the scabbard, I saw him go from West to the man, the sword was naked when he run it into his body, it had not the sheath on then.

Q You did not go up to him? I did not.

Q When West had something in his hand, he was likely to do much mischief with, as you thought, you went up to him; why must not I suppose that your humanity would have led you, not to be so afraid of a lad of that age, but that you would have gone up to him, had you thought he was going to do mischief with it? I could not see what he was going to do with the sword.

Q If you apprehended that he was going to do mischief, would not you in humanity have laid hold of him, when you was behind him? If I really had thought he was going to do mischief, I don't know whether I would have ventured myself to have gone and took the sword from him, or gone up to him,

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Q Did

Q. Did you think Turton was meaning to defend himself from mischief with this sword? Defend himself? I did not see there was any intent of hurting him.

Q. You did not see the hand by which the sword was taken from West? No.

Q. But you saw enough to know that West did not give the sword to him, but that it was taken from his side? I don't know whether he gave it, or whether it was taken from his side.

Q. It was hanging by his side? It was.

Q. Have you any reason to think West did give it? It was hanging by his side when he left the man, from beating him with his stick.

Q. When this sailor went up those stairs, did not the person of the house come out, and desire they would take him away? I cannot say, my house is 20 yards from the place.

Q. When this misfortune happen'd you went to West, who gave you the sword? I told him I must have that sword, and he very genteelly said take it all together. He behaved exceedingly well.

Q. You say he behaved exceedingly well? Yes, I had no occasion to use him otherwise.

Q. I want to ask you—You live at Chatham, there are a great many ships always stationed there, have not you had in the course of your living there, differences with the officers of the men of war? Too many.

Q. Is it not possible for me to conceive, from your giving your evidence in the manner you have, but you must have had some? More than I wish for to say.

Q. You have had differences with officers of men of war stationed there? With men of war and others too.

Q. Such disputes you have had? I would wish to explain my meaning, in saying, more than I wish: I have been insulted by officers, and knocked down in my own house, and surrounded by six officers at a time, with their swords drawn.

Q. Never by either of those gentlemen? I don't know that ever I saw those gentlemen before.

Q. You say you may not have seen the whole of this transaction? I have given my evidence to what I did see.

Q. You are sure you have told me and the jury all you did see? As near as I can recollect.

Q. Because the gentlemen have asked you to matters, which if they are true, are in favour of the prisoner? I really cannot say.

Q. Did you see any of those things the gentlemen examined you to, as to the man going in one of those houses; and the man of the

house coming, and desiring the officers to take the men away? There was a parcel of women, I did not see any man there.

Q. You ought to know it is your duty to tell the whole truth, without any regard to where it falls? The whole I know I will speak.

Q. If you know any thing that can make in favour of the prisoner, and conceal it, it is the wickedest thing in the world? I hope I have that conscience to know it; I don't know of any thing more.

Q. Did you see any thing of that circumstance of the man going into one of the houses, and the owner of the house, or somebody else coming out, and desiring they might be taken away? No, there was a woman came out, but I did not see any man.

Q. Why did not you mention that before? what signifies whether it was a man or a woman? He asked me whether it was the man of one of the houses.

Q. Tell me what you saw the woman do? I did not see her do any thing; I heard her call out, for God's sake, don't murder the man.

Q. Was that all? That was all.

Q. Were those women belonging to either of the houses? Yes, there was one belonging to the house that's facing the steps.

Q. Now again I ask you, do you know whether the deceased, did or did not go in to any of those houses that were up the steps? I did not perceive that he did go into any.

Q. Was he out of your sight? I did not say he was out of my sight; he could not be; after that he was took by the collar, turned round, and led up towards the top of the steps.

Q. Another thing you have been asked, as to some insult been offered to one of these prisoners, before the sword was used in the manner you said it was; did or did you not see the two prisoners, or either of them, receive any blow, or that there was any struggle between them or any body else; any affray amongst them? No affray; but after the man got up he was shoved down, as I mentioned before, and he reeled about a good deal, and throwing his hands about in this manner, just touched him in this manner.

Q. Why did not you tell me that before? I did not perceive it was done with any strength.

Q. Why did not you tell me that before? I wish you to understand, it is your duty to tell all you know, and particularly in favour of the prisoner, as well as against him—tell when it was? After the man was lifted up when he should down, he reeled about a good deal.

Q. After he had received the blow from Turton? After he was shoved down the steps he lay

lay upon his back, and when he was lifted up by his shipmates, he rather reeled about, and run up, or at least staggered up against Turton.

Q. And what else? His hands were reeling about in this manner, and happened to touch just here, *[touching his collar near his face]* but I cannot say it was with an intent to strike; he reeled up against him, he was so drunk he could not stand steady.

Q. Where was it he happened to touch, what part? Some where here about *[touching his neck again.]*

Q. Was that the whole which you saw him do? I cannot recollect that ever I saw any more.

Q. That reeling about and moving his hands, had very much the air of resisting, offering to fight or strike: was it so or not? I don't know, when he was lifted up by the bottom of the steps, he reeled about very much.

Q. It is different, whether a drunken man, endeavouring to stand, reels about to recover himself, or puts himself in a posture of defence, to strike any body that offered to touch him; I want to know which of the two it was? I do not know that he meant to strike.

Q. Then it was nothing but the reeling of a drunken man, to save himself from falling? I look'd upon it as such; for when he was struck over the head he held his hands up.

Q. It might be supposed, if going to strike, he would strike; then the man might lift his hands up, either to put himself in a posture of defence, to attack another man, or to save a blow off his own head; which did it appear to you to be? To save a blow of the cane which was laying over his head.

Q. It appeared to you to be that, and not to offer to attack? No; I did not see any resistance during the whole time.

Q. Then there did not appear to you to be any kind of resistance? When his hand happened to touch Turton's collar, it did not appear to me to be any resistance.

Q. Can you say, whether he took hold of his collar? No; he was not able to take hold of any thing.

Q. But being very drunk, a man might fancy himself able to fight? No; he was not able.

Q. I understand he was too drunk to be able, but he might fancy himself able; I want to know whether you understood him to be endeavouring to resist, or only saving himself from falling, and by accident sprawling about, happened to touch him? He was not in a posture of defence, I apprehend it might be to save himself, he was willing to save himself, after he was led up to the door, he happened to let his hand

slip, or I might have been asked if he did not strike then.

Q. So you might? I did not perceive it was done with that intent.

Q. Have you now told the whole? Yes; I have nothing more to relate.

David Hunt sworn.

Q. Where do you live, Mr. Hunt? In St. Margaret's parish, in the liberty of Rochester.

Q. What are you? I am a custom-house officer.

Q. What do you know of the death of Gutherion? On the 14th of April I was coming up the street, three men went up my steps, and on my coming up the steps, I saw three sailors, which I suppose went there for shelter.

Q. What distance were you from them when you first saw them? As far as from here to the top of the street; there where three sailors when I came.

Q. Where did you see the three sailors? Up my steps, and the two gentlemen went after them: I followed them, when I came up the steps, I asked the gentlemen, what are you doing here?

Q. What were they doing when you came up? They wanted them to go on board; the men said, we will go, but we will not be licked.

Q. What were they beating them with? This Mr. Turton had a little bit of a cane, a rattan; and the other gentleman had this stick in his hand, and broke it about the deceased's head.

Q. The men said we will go on board, but we will not be licked? Yes, there was a tussling about between each other, and they shoved one another down the steps; the midshipmen wanted them to go along, they rather resisted; they shoved the deceased down the steps, he came with his head upon the kirb stone.

Q. You say they shoved one another? Yes, all together.

Q. What the sailors? The sailors and officers too.

Q. Did they all go down the steps together? They all came down the steps together; the deceased fell with his head against the kirb stone; I said, what signifies beating the men, they are not able to do service, if you get them on board; you had better let them be a little while, and then they will be of some service to you.

Q. Who did you say that to? To those two gentlemen. *(pointing to the prisoners at the bar)*

Q. What did they say to that? This gentleman, Mr. Weit, I believe after he had broke the stick twice about him, he shoved the end of his stick in his temples and eyes.

Q. So

Q. So then they did not pay any attention to what you said? No, there was such a halloo bellow.

Q. So that they did not leave beating the man, till West's stick was broke twice? Yes, broke twice, and he jobbed the end of the stick in his face two or three times.

Q. Jobbed the end of his stick where? In his face and in his temple.

Q. Once, or more than once? Several times; the men then, insisted they would not go on board, they were very drunk indeed.

Q. They still insisted they would not go on board? They would not, the gentlemen were endeavouring to get them on board.

Q. All the three sailors? Yes, but one of them was gone, and then this young gentleman, Mr. Turton, by the sailors falling about, as it was very wet weather and dirty, got a dab of mud upon his cheek; whether the sailor struck him or not, I cannot pretend to say, it was jolt upon the side of his face. And then, Mr. Turton said, you rascal, if I had a sword I would make you go on board; immediately he goes to this gentleman, as he was three or four yards from him, takes the sword out of the scabbard of the other gentleman, and directly ran to the man and began to thump him, with the naked sword about the shoulders, and every where, he shoved the man down upon his backside, his face was up Rochester ward, and he leant upon his right hand, he was beating him with the sword monstrously.

Q. Leaning how? Leaning upon his right hand, and after he had done that, he took the sword in his left hand and stabbed him right against the breast; I heard the sword ruck against the bone.

Q. You heard the sword strike against the bone? Ruck against some bone; it shocked me so, Sir, I was not myself a good while; my wife said they will kill the man; says I, they have killed him: The man got up by some means and turned round to me, to the right, I suppose there was as much blood under him as a plate would not cover; I was so frightened, I saw no more.

Q. He run the sword in his breast you say? Right in, and it would have gone right through him, if it had not been drawn out when it was; he stood for a moment, turned round to the right, and came to Cooper's over the way, he died in a few minutes, I suppose not a quarter of an hour.

*Cross Examinations, by Mr. PECKHAM,
Counsel for the Prisoner.*

Q. Those sailors you think came towards you for shelter? I thought so.

Q. Those gentlemen came after them, on purpose of getting him on board the ship? Yes, I suppose so, it was up my steps, I said gentlemen, you will break my windows; there is three houses, I live in the middle of them, I have lived there seventeen years.

Q. What did you say about breaking the windows? I said, I thought they would break the windows.

Q. Who did you say that to? To all of them, they were standing together.

Q. Did not you desire the officers to take these men away? Yes, they all came down together.

Q. At that time did you see the first witness Bond.—No answer

Q. Did you understand the question I put to you, you say you were afraid your windows would be broke? Yes, I told them so.

Q. Addressing yourself to the officers, did you say, take them sailors away, or get away, that your windows might not be broken? I told them it was not a proper place for them to be wrangling in, and desired all the tote of them to get away.

Q. Did you desire the officers to take the men away? No, I spoke to all together.

Q. Did you address yourself to the officers or men? To all of them.

Q. Was Bond by, the first witness, you know him? Very well.

Q. Did you see him at that time? Yes.

Q. Was he within hearing of this? Yes, he does not live so far off.

Q. Suppose he was at his own door, he must have heard what you have said? O yes, Sir, he lives only cross the way.

Q. In short near enough, that he might or must have heard what you have said? Yes, Sir.

Q. When they beat these sailors with the rattan, do you think it was on purpose to make them go on board the ship, which they refused to do? The midshipmen were rather angry with the sailors, and began to beat them the more.

Q. Were they not angry, because they would not go on board and obey their officers? The men were in liquor vastly; the deceased was so much in liquor he could not stand, but fell down without shoving down, it was very muddy.

Q. They shoved one another down the steps together? Yes, they were all together.

Q. Did you in particular see the deceased shove either of those officers? No, it was all together.

Q. And each shoving the other in such a manner you could not distinguish? No, I could not

Q. Bond

Q. Bond might have seen that from his door? I don't know that. Bond might have seen that, it was through a palisade.

Q. Was it close or open? I dare say about two inches a part between each rail.

Q. Bond was to the right of it, he had left his house at that time, he told us he was only five or six yards from it? I am not able to tell that.

Q. The deceased fell with his head against the kirb stone? There was none fell down but he.

Q. Did not you say, they were all shoved down together? They were all shoved, but nobody fell down but he; he had a terrible fall indeed, he got up again, he was blasting and blowing about.

Q. He did blast and blow about? Yes, very much, and said he would not go on board.

Q. Was this blasting and blowing about, addressed to the officers? Yes.

Q. Was there improper discourse to the officers? Yes.

Q. Now you say, Turton had a dab of mud upon one side of his face? Sir, upon his left side.

Q. Was not he knock'd down? I did not see him knock'd down at all.

Q. Did the dab of dirt appear from falling in the dirt, or dirty from the man having hit him? I cannot say; it was just here upon his face.

Q. The moment you had seen the dab of dirt upon his face, was it after shoving down the steps? Yes; some few minutes after then, and not till then, he appeared vastly irritated when he got this mud upon his cheek, he turned as white as could be; and said, You rascal, if I had a sword I would make you go on board now; he was very much in a passion, and then he run to this gentleman and drew his sword.

Q. A blow upon the head will make any body look pale? I don't know that he had; I saw him have no blow.

Q. The moment this dab of dirt was upon his face, he then turned pale, and was in a passion; and then said, What? He turned pale, and I take it he was more in a passion; he immediately run, and said, You rascal you, if I had a sword, I would make you go on board now. This gentleman was five or six yards from him, he went to him, and drew the sword out of the scabbard.

Q. When he came back, did he still persist in ordering the man to go on board? He knock'd the man down, he fell upon his breech; he began to pay away.

Q. When he had the sword, did he tell him to go on board then? No.

Q. Did he strike him with the flat of the sword? No; he cut him all to pieces.

Counsel. The surgeons are here, take care what you say? I suppose it.

Q. You said just now, he cut him all to pieces; consider, these boys lives depend on your evidence. When you were asked, whether it was with the flat of the sword, you said, No; he cut him all to pieces.

Witness. You confuse me.

Counsel. My friend, I don't want to confuse you; I don't want to confound you? Yes, Sir, you do confound me.

Q. When he first came up with his sword drawn, you say he struck him across the head and shoulders? Yes.

Q. Now was that with the flat part of the sword or not? With the edge of the sword. I suppose he took the sword in the other hand, and stabbed him, that was enough.

Q. You will go to the stabbing; I will not let you go to the stabbing.

Court. Did he strike him with the flat or the edge? I cannot tell, he had the top of his head cut as broad as the palm of my hand, and all cut about the shoulders after I saw him dead.

Q. You say he changed his hand, and stabbed him in the breast? Yes, in the breast.

Q. After Turton had run to West, and took his sword, and came back again, how near was you to the deceased? As near as that wall.

Q. How near? I suppose within 4 yards.

Q. As you was leaning over the palisades, you commanded every thing? Yes, I saw every thing.

Q. You saw it leaning over the palisades, about 7 or 8 feet from the place? Yes, I was.

Q. And high enough to command them? Yes.

Q. Was there any body between you and them? Nobody, only the pales.

Q. I ask you if there were any people between? Nobody at all.

Q. You was near enough to hear? O yes, very plain, he was over the way when he took the sword.

Q. What did he say to him when he had the sword? He said, if I had a sword, I would make you go on board now, you rascal; he came and draw'd the sword out of the scabbard from this gentleman's right side, who made no resistance.

Q. Was it long doing? It was done instantly, in the height of passion, I suppose.

Q. How, was it snatching the sword? He never asked for it?

D

Q. Did

Q. Did he say any thing to him when he run back to the deceased? Not at all, but he began knocking him about.

Q. Can you be sure, whether he did or did not say any thing to the deceased before he struck him? No; but he began to cut away at once.

Q. You told me you could not be sure, whether the man struck him or not? No.

Q. Did the deceased say any thing to him? No, I did not hear him say any thing; the man never rose from the ground from the time Mr. Turton came up to him with the sword, to the time of his being stabbed, till after his being stabbed; he never rose from the ground, he sat down upon his backside.

Q. Do you know, Sir, whether the deceased said any thing, from the time of Turton's coming back with his sword from West, to the time of his being stabbed? No, I did not hear him say any thing.

Q. Nor do any thing? No, the man was down upon his backside.

Q. It is possible he might have said something, and you not have heard it? I did not hear any thing said.

Q. You saw no attempt to resist Turton, or strike Turton, or any thing of that kind? None at all.

Anthony Roystone sworn.

Q. Where do you live? At Chatham.

Q. What are you? A paviour.

Q. Where was you when this man came by his death wound? Walking by Mr. Wildash's gate.

Q. How near is the gate to the steps that go up to the last witness Hunt's house? About 10 yards up to it.

Q. Tell what you saw? As I was at work I heard a noise up the street, and I held up my head and looked, I had my head down at work, and said, here's a sailor's fight, I believe, let's go and see it, with that I put down my pick axe and walked up the street, and just as I had got to the steps where Mr. Hunt lives, they had got pretty nigh the steps, so I stopt till they came and run up the steps.

Q. Who do you mean by they? The three sailors, and the 3 officers that were after them, when they was all up together, the biggest of the two laid hold of the deceased, and said, will you go on board; then the deceased fell a swearing, and they fell a beating of him, as hard as ever they could, with their sticks or canes, or whatever they had; and the biggest of these two gentlemen said, You rascal, you don't know when you are used well; they then beat him again, and pulled him to the head of

the steps; then they shoved him down the steps, and he fell on his back on the kirk; a very bad blow; they began beating him again when he was got up; after they had beat him plentifully, the biggest of these two gentlemen went away, the other hit him several times with his fist.

Q. Which went away? The biggest left him.

Q. Where did he go to? He went to the other side of the way just by the Ship, a public house, and then there was a scuffle, and the sailors fell amongst the dirt, and were shov'd down.

Q. Relate a little more particularly all that you have said? The biggest went on the other side of the way.

Q. What followed? Then the youngest was beating him with his fist, and shoved him down once more on his back, when he got up he staggered against the little one.

Q. How did he get up, was he lifted up? His comrades, the sailors assisted him in getting up.

Q. Who did you say he staggered against? I don't know his name.

Q. Was it Turton? Turton. I did not know his name at that time; then, whether Turton struck him again, I don't know, but he run from him, and went and brought a sword.

Q. How did he strike him? He run head foremost against him.

Q. Did it appear to be nothing more than the reeling of a drunken man? Nothing but the staggering of a drunken man, and being beat so with the cane made him do more so.

Q. Was that meant to defend himself? I did not see him in a posture of defence.

Q. That reeling did not appear to be a posture of defence, or offering to attack the officer? No.

Q. Nothing more than a drunken man, not able to stand, and reeling forward? Reeling forward, that was all I took it to be.

Q. Did you observe in his staggering in that manner, whether he touch'd Turton in any part of his body? I did not notice whether I might or not; I observed Mr. Turton give way, and hit him with his fist, whether shut or open I do not know, then he brought the sword. I did not see where he got the sword; he had not got one before.

Q. Do you know how Mr. Turton's cheek was hit? I did not know it was hit, he brought the sword and struck at him, the first blow he missed his head, and caught him rather upon his back.

Q. Where was the deceased at that time, in what posture when he struck him first? Sitting upon his legs.

Q. So you say, he missed the head, and the blow

blow fell where? Some where about his back, I cannot tell directly the place where it fell; then he hit him two or three times more upon the head, with the last blow the deceased fell upon his left side, leaning like with his right arm in the dirt, then he run it in his body with his left hand, and he was obliged to step back with his right foot, before he could get it out of his breast.

Q. Did you hear him say any thing to the man when striking him with the sword, or the man say any thing to him? I never heard a word changed between them.

Q. While the deceased continued upon his legs before he fell with the last blow, what was he doing? He was staggering about, he could not stand steady, he never pretended to put himself in any defence to fight, or give any resistance to the ill treatment given him.

Q. What were the other sailors about? Gone away, I did not see them in the fray, after he was tumbled down the steps.

Q. Do you know what became of them? They came to me at my work, the two sailors did afterwards.

Q. Did you see them at the time, were they near the spot at the time the wound was given? No, I did not see them at the time, I had too much attention upon the deceased, and upon the barbarity of it.

Cross Examined by Mr. SYLVESTER.

Q. This was upon the steps you saw them first? I saw them in the street.

Q. Afterwards upon the steps? I was close by the steps, when they run up the steps and the officers after them.

Q. Did you see them go into the house of any Woman? No, I did not.

Q. They were shoving about? As I observed, they were pulling him down from the top of the palisades.

Q. And they came down together? There was none fell but him.

Q. He was picked up by his comrades? Yes, then they began beating him in the street.

Q. He was picked up by his comrades? Yes, one or two.

Q. Do you recollect any thing said by those fellows? No, but the biggest of the two prisoners said, you rascal, you do not know when you are used well.

Q. There was a deal of swearing I suppose? The midshipmen and sailors all were swearing, and blasting their eyes as fast as they could.

Q. When down, you did not hear them say any thing to the sailors, they were not encouraging? No, nothing at all of that sort.

Q. Then West went and left Turton with the three sailors? No, with one, the other two were not with them.

Q. What became of them you don't know? They came to me afterwards, where they were at the time, I cannot tell.

Thomas Newland, sworn.

Q. Where do you live? In St. Margaret's parish, near Rochester.

Q. What are you? A cordwainer.

Q. Where was you at the time the deceased was killed? Near my door.

Q. How near is that from Hunt's steps? I look upon it to be about ten or twelve yards.

Q. Relate to the jury what you saw? When I came to my door, they, that on the coroner's inquest appeared to be West and Turton, stood opposite my door, by the Ship; the deceased came towards my door, on the same side of the way where I live, reeling, very much in liquor; West turned about, crossed the road, and came to the man, and with a rattan, or something bound up in a little whip handle, beat him over the head.

Q. He crossed the road, and met the man? He met the man.

Q. Was that man the deceased? The deceased, Gutherson, as it appeared to be afterwards.

Q. Who first beat him? West first began with his rattan, and beat him over the head, and Turton struck him over the head, with a drawn sword; they struck him at several times, the blows were repeated pretty quick, one after the other.

Q. By both? By both: the man, Gutherson, who is deceased, put his hand up to his head in this manner, to save the blows being repeated by the stick and sword, by West and Turton: the poor man fell to the ground: as the man sat upon the ground, and bearing upon his right elbow, they repeated the blows while he was upon the ground, and Turton shifted the sword from his right hand to the left, as he stood upon the left side of the man, and thrust it into him.

Q. Put the sword how? Put the sword out of his right hand into his left, and thrust it into the man? Yes, after he drew the sword from his body, he made a blow at him again, with his hand upon the head.

Q. Did the blow strike him? Yes, after he had struck him, and the sword was gone from him; I did not see which way the sword went, the man was so much my object, to see the change of his countenance: I saw it after in

West's

West's hand, and he was wiping it across the thighs of his breeches, to get the blood off.

Q. Have you done? After the sword was put in the scabbard, I saw no more; Bond, the officer took Turton, and afterwards went and took West without resistance.

Cross Examined by Mr. ERSKINE.

Q. You was at your own door when you saw this? Yes Sir.

Q. You did not come away from your door? No.

Q. Did you come out of your house after you heard the noise? I stood upon the steps, and never went from there, till after the people were gone.

Q. How long had you been out of your house? I was not out of it at all, I was standing at my own steps.

Q. You was on the outside? No Sir, within the door frame.

Q. How long had you been standing there before this? About ten minutes.

Q. Before you saw this? When I went to the door I saw it.

Q. Did any noise bring you to the door? Yes, it was the people's running to and fro led me to the door.

Q. You did not see the officers or men up Hunt's steps? No, the two officers were on the other side of the way, near the Ship.

Q. The first thing you saw was the two officers striking this man? There was one striking him with his sword, the other with his stick.

Q. And all the while one was striking him with the sword, the other was striking him with his stick? Yes, they were not separated from the time I saw him, till the man was wounded for his death: that is to say, the gentleman that struck with the sword, the prisoner at the bar, and the other with the stick; they were not separated from the time the man was stabbed, till Bond took them in possession.

Court. Was you before the coroner? Yes.

Q. Did you relate it there as you have here? Yes, I believe every word, I don't know that I varied a word.

Mr. Erskine. Now attend to what I ask; I want you to explain it, that I may understand you—When standing at your house door, and saw what you have now told the court and jury, had Turton, the smallest of those two, a sword in his hand, or a stick? He had neither sword nor stick when I first saw him; he got it from West's side.

Q. Was he just by him? He was on the opposite side of the way, by Cooper's house, and

got it out; and the moment he got the sword out, he fell upon him.

Q. West and Turton both fell upon him? They were both together with the man, the deceased; they both beat him, the one with his stick, the other with his sword.

Q. Did you see any mark upon Turton's face? I did not observe it.

Court. What time of day was this? About four o'clock in the afternoon.

Q. Where was the sailor when he was found first? Coming up towards my door, upon the same side of the way; I look upon it not to be above six or seven yards.

Q. Coming up from where? I live in the parish of St. Margaret's, next Rochester.

Q. Where were the other sailors? There was another sailor, but he stood a distance off, seeming to be fearful.

Q. How far off was he from your door, when you first saw him? Coming from the steps where they had the wrangle, between those steps and my door.

Q. So you did not see him at all, till he was got nearer you than the steps? Nearer me, a very little way from my door.

Q. Going from Chatham? Coming from Chatham towards my door, coming next Rochester.

Q. Was you quite sober? Yes, I have drank nothing to day.

Q. Was you sober that day? I had drank nothing at all that day but tea, and I think it is very sober liquor.

Q. You have a very clear recollection of all that passed, while you look'd on? Yes.

Q. If I understand your account right, that as the sailor was coming up, and those two persons being on the other side of the way, he took West's sword, then they both came across the way to the sailor, and fell upon him? Yes.

Q. Did you hear them say any thing to him? I never heard a word pass between them.

Q. Was you near enough to hear them? I look upon it to be six or seven yards from where the man lay that was stabbed, a very little way.

Q. How near is your shop to the street? It joins to it.

Q. Was there an affray before you came from the shop? My wife said there was a noise; I went to see what it was, and when I came, I saw what I have spoken to.

Q. Are you quite sure when Turton took the sword, they both went across the street to the sailor, and both fell upon him, both beating him, the one with a sword, the other with a stick? I would not say a wrong thing.

Q. Did

Q. Did you hear the other witnesses examined before the coroner? Yes.

Q. Did you hear what they said? Yes.

Q. Do you understand your account to be the same? I have told the same as I told the coroner, to the best of my knowledge; I have told the truth of what I saw—as to what I saw; I hope they have spoke the truth also; it is not every ones eyes that see alike.

William Garnett sworn.

Court. What are you? A taylor.

Q. Where do you live? At Chatham.

Q. Where was you, when Gutherfon received his death wound? In my own chamber.

Q. How far is that from this place? About ten yards.

Q. In your chamber, up stairs? Yes.

Q. At work? I believe I was.

Q. About ten yards off? Yes, I suppose it to be there, or thereabouts.

Q. What was the first thing you saw or heard? As I was in my chamber, I heard a tumult in the street, I went to the window and looked out, I saw, as I thought, three sailors and the two gentlemen, those two gentlemen were beating the sailors, one in particular, the shortest of them.

Q. You say one in particular? Yes, I can not swear Mr. West struck any one of them, I would not wish to tell an untruth; I believe that gentleman Mr. Turton struck, particularly the deceased, both with his fist and rattan, or cane, or whatever it was, I cannot say: but after much beating, the sailor seemed very unwilling to strike, as I thought for fear of the punishment that would ensue, from striking an officer.

Q. That is mere conjecture I suppose? Yes, in my own mind; but after some beating, (*I speak from the best of my own judgment*) I thought he, that is now deceased, made a push at that gentleman with both his hands, this was seemingly towards him, a drunken staggering push, but it was a push in my judgment; after this I saw, as (I think,) both the sailors and this gentleman down together at that time, and I think Mr. Turton seemed to rise quicker, and got the sword before the sailor got up; and I saw him with the naked sword strike him, I will not say with the edge or the side, but I thought it to be with the side.

Q. You saw him with the naked sword do what? Strike him over the head or else where, I cannot say which.

Q. Where was the deceased? He was standing by some means or other, to the best of my knowledge he was got up; afterwards I saw

him stab him into his breast, I did not know whether it was in his breast, or in his cloaths till I saw the wound afterwards—I know nothing more of it.

Q. That is the whole you know? That is the whole I know, I did not see the whole of it from the beginning.

Q. Can you tell what posture the deceased was in, when you saw Turton, stab the sword into his breast? I think he was leaning, he was not quite up, nor quite down.

Q. At this time where was the other prisoner? I cannot say any thing about the other prisoner, I will not swear any thing concerning him.

Q. Did you see where it was Turton got the sword? I did not.

Q. After Turton began to strike with the sword, did you see West do any thing? I did not to my knowledge.

Q. Can you be sure he did do any thing to the deceased afterwards? I will not swear he did any thing.

Q. Can you be sure he did not, after Turton got the sword? I cannot, I was very much perplexed in my mind.

Q. You saw what Turton did distinctly? Yes, to the best of my knowledge.

Q. If West was also striking the deceased, must not you have seen it? My steadfast opinion is, and I thought that West had no hand at all in it.

Q. Did you see him do any thing after the sword was once got from him? I can say nothing at all to West from beginning to ending.

Q. You told me you saw them both together, and both beating the sailors, but you do not care to swear you saw West strike a blow? No, I will not say any thing to West upon my oath.

Q. You must tell me if you know where West was at the time? I do not know, I cannot swear to any thing, I will not attempt it.

Christopher Blackstone, sworn.

Q. Where do you live? In St. Margaret's parish.

Q. What are you? A surgeon.

Q. Was you sent for to the deceased before his death, or did you inspect his body afterwards? I was going from Chatham, they desired I would step up to Mr. Cooper's door, at the ship, there was a man that had been stabbed by an officer; when I came up to the steps, he was upon the ground, his back against the wall his bosom was open, I perceived a wound upon the breast.

Q. Which breast? The right breast; upon examining it, I saw the breath come out of the wound; I told his two comrades that were with him, not to tease or torment him, that he was a dead man; (one of them had a basin with something in it, they were pressing the man to drink some of it, and said it would do him good) upon which they desisted, and they did not meddle with him any more: they began to stamp and rave when I told them, I thought he was a dead man; I staid by him, and kept feeling his pulse till he was dead; after he was dead I went away; but was afterwards requested by the Coroner to attend at seven o'clock to view the body: On examining the wound upon his breast, I found it had passed into the right lobe of the lungs. There were two wounds upon his head, the one on the top, the other upon the side of his head, to examine the wound upon the top I took off the scalp.

Q. What was the appearance of the wounds? They appeared to be incised wounds.

Q. Cut with an instrument? Cut with a sharp instrument, I took the scalp off the top of the head and pericranium, and found it had gone through the first table of the scull, not deep. I examined the wound on the side of the head, and found that had not gone so deep as that upon the top of the head. I then acquainted the jury, that I apprehended the wound upon the right breast was the occasion of his death, and requested to open the wound and examine its depth. Another surgeon, Mr. Robinson was sent for, when he came we opened the sternum, and found the sword had passed through the superior right lobe of the lungs, and had opened the pulmonary artery.

Q. Do you suppose the mere effusion of blood from such a wound, would produce death? It certainly would.

Q. Have you any other observation to make? No.

Cross Examination.

Q. Did you carefully inspect the body all over? I cannot say I did, I paid my chief attention to the wound in the breast; I examined two upon the head, and found neither of them, in my opinion, mortal.

Q. Were there any other wounds? There were slight wounds.

Q. Did they appear contused? Yes.

Q. But none of those mortal? I suppose not.

Q. You say there was an incised wound as you call it? Yes.

Q. Was there any appearance of contusion? No.

Q. Was it a sort of wound made by a cut, or

might it have happened by falling against the kirk? It appeared to be an incised wound, a cut.

Mr. William Robinson, Surgeon sworn.

Q. You was not present, I think, at the moment the deceased died? No.

Q. You attended the coroner's inquest? I did.

Q. Will you relate to the jury what observations you made? I think between 9 and 10 in the evening I was required to attend the coroner's inquest, upon the deceased body: Mr. Blackstone informed me there was a wound in the breast, and that he wished for another surgeon to examine with him, said, it had entered the cavity of the thorax, and passed through the lungs—we proceeded to inspect the thorax; we removed the sternum, and found a wound upon the right superior lobe. I passed a probe through the wound, and it went immediately to what is called the root of the lungs, and the spine obstructed it going farther; I found the wound penetrated quite to the spine; we then inspected the lungs, and found the large vessel, and pulmonary artery wounded; I look upon it to be the occasion of the man's death: I examined next, one wound upon the head, which I perceived was from a cut with the sword; there was one slight wound upon the back part of the head, and a few bruises with a stick; as to the face, it was so covered with blood and dirt, that I could see very little of it.

Q. Is that the whole of your observations? It is.

Court. William Henry Turton, I observe you have counsel, they can only be permitted to examine your witnesses; if you say any thing for yourself, you are to relate the matter of fact to the jury, or to say any thing for yourself, you must speak in your own person; but you are not allowed counsel to speak for you, therefore you will judge whether you will leave your defence to be made out by witnesses, or speak for yourself.

WILLIAM HENRY TURTON'S DEFENCE.

My Lord, I would mention one thing; when the man was wounded, I had a rattan in my right hand, defending myself; and I had the sword in this posture, *[holding out his arm straight.]* in my left hand: the man came up to me, drunk, and trying to strike me again, ran right against the sword: and that is the truth of it.

Court. You say the truth of it is, you were defending yourself; the man reeled up against you

you, and ran against the sword? Yes, the rat-tan was not thicker than this finger; the man struck me very often, I dare say there are witnesses will prove that.

Court. Luke West, what have you to say in your defence?

LUKE WEST'S DEFENCE.

I have nothing to say, I did not kill the man.

Court. You chuse to leave it to your counsel?

Luke West. Yes.

Mr. Robinson, Surgeon. My Lord, I mean the cuts were incised cuts, with a sharp instrument, whether with a sword or any other instrument, I cannot tell; the bruises I saw, might have been done by his falls.

Q. You cannot tell of what extent the wounds upon the head were? No.

Evidence for the Prisoners.

Patrick Campbell sworn.

Q. What ship are you master of? Of the Camel frigate.

Q. Did Charles Gutherfon belong to that ship? Yes.

Q. And did those two gentlemen belong to it? They were midshipmen of that ship.

Q. Gutherfon was a sailor of that ship? Yes.

Q. Did you give leave to them to go on shore?—But, let me ask you first, had not you the command devolved upon you, as master of the ship that day? As master.

Q. Did you see Gutherfon on that day? No, I could not find him that day.

Q. Were other sailors absent? Yes, Charles Crispin and James Cazeley.

Q. Did you give any orders to search after them? Yes.

Q. To whom? To those two: I took care of the rest of the people, that none should go out: those three people went out with an hour's liberty, the night before; they did not return, and it was the next day this happened.

Q. What day? The 14th. Mr. Turton came up, and told me some victuals which was to arrive from the Victualling Office, was not arrived on board; I told him to go to the Victualling Office to know the reason; at the same time told him to take Mr. West with him, and to look for those three men, as they were going to the Victualling Office, and bring them on board, or send them on board; in consequence of which they went.

Q. You expected from those orders you gave, they would do so: and did you then look upon it as their duty to bring them on board, if they could find them? Certainly.

Q. None of the witnesses have hitherto spoke to the names of them, probably you might know whether those two men you named, appeared to you to have been there, at the time of this accident? They were.

Q. You knew no more of it till after the accident happened? No.

Q. You gave orders to bring them on board? Yes.

Q. Was it their duty, in consequence of the post they held? Yes, certainly.

Q. Had either of those gentlemen belonged long to your ship? Yes, some months before.

Q. Particularly as to Turton, what is his disposition? A very good disposition, as far as ever I knew; he was willing to attend to his duty, and always sober.

Q. Is he of a humane disposition; do you think he is a young man, who would be guilty of any thing of this kind? I don't think he would be guilty of any thing improper, without cause, or provocation? I never knew him guilty of any thing wrong at all.

Q. Now as to Mr. West, what do you say? As to Mr. West, I never knew any thing of Mr. West, but being of a very mild disposition; I never new him strike a man in his life, never in liquor, and always willing to attend to his duty.

Rebecca Gardner sworn.

Q. Madam, do you remember Gutherfon coming to your house at Chatham when this accident happened? I keep a shop in Chatham, the man came into the shop as I was standing behind the counter, as I may do behind here now; and the gentlemen that came in after him were the two at the bar, those that stand there. When I did look up, (it was some time before I did, thinking it was more customers as I was serving others) the sailor came up close to me; I was rather mad; I saw him rather in liquor.

Q. Did the man come to you behind the counter? He came close to me.

Q. Within the counter behind it? Yes.

Q. And rected against you? Yes, before I really saw him.

Q. Did you then speak to the young gentleman, the little boy Turton? I said, if you are his officer, as I suppose you be, of that man that stands there; take him away from me, for he will

will break my things; for I fell glass, or to that purpose; I thought he would break them.

Q. Did this lad take him away? He told the two sailors that were there, that stood by at the door, to take him away, and they did; and he smiled, and agreeably smiling said, he would take him away.

Q. Then Turton never said or did any thing, but you believe was in a good humour? As good humour as ever I saw, and they played at tag as I thought.

Court. How did they get him out? They took him by the arm.

Q. The two sailors, I think you said? The two sailors, by the officer's orders.

Cross Examination.

Court. Do you speak of two sailors, or one coming in? Two sailors.

Q. Did they both come behind the counter, or one? I cannot say both, there might not be room; they came round to the man, the one took hold of him, and they went to take him out.

Q. What become of the other sailors? There were two sailors, and those two gentlemen; I saw no more, and the drunken sailor that was with them.

Q. Then there were three sailors came in together? Three sailors.

Q. And the drunken man came behind the counter to you? Yes.

Q. How were they got out, did the two sailors take the drunken man away? The two sailors were ordered by the young gentlemen to take him out, when I spoke to them.

Q. How did they take him out? They took him by the arms.

Q. How far is your shop from Hunt's? It may be as far as to that window, *about 10 yards.*

Mary Bell sworn.

Q. Do you remember the sailors coming to your house? Yes, Sir.

Q. Do you remember the officers coming after them? Yes, Sir.

Q. Do you remember that young lad? Yes, he came into the shop.

Q. What time? I don't recollect when.

Q. Do you recollect your mother's saying any thing? I heard my mother desire the gentlemen to take the sailors out.

Q. Did you see the sailors taken out? Yes, Sir.

Q. By the gentlemen's orders? Yes, Sir.

Q. Do you recollect any thing else? No, I do not.

Q. Did you go up to the door afterwards? Yes.

Q. What became of them? They went directly across the way.

Q. All of them? Yes.

William Storey sworn.

Q. Where do you live? I am a lodger at present, at Strood: I have a house, where I pay taxes at Chatham?

Q. Was you passing in the street on the 14th of April, when this accident happened? Yes, I was.

Q. Please to relate what you saw? It was between 4 and 5 o'clock in the afternoon I saw a bustle in the street, as I was walking on; I never stopp'd; presently, I saw the seamen and the officers, as I imagined them to be, disputing, and presently, the seaman appeared to me, as if he had struck him upon the side of his head, he fell back; I kept walking on.

Court. It appeared to you what? It appeared to me the sailor struck the officer about some part of the head, and the sword dropp'd out of his hand, I believe, two yards distance from him, or a yard and an half.

Q. It appeared to you the sailor struck the officer, and the officer fell down at the same time? The sword fell upon his right side, within a yard or a yard and an half.

Q. Did it appear to be a blow by which the officer fell down? Oh! I am clear of that, whether with one or two hands, I don't know; I imagined it was under the left ear.

Q. You imagined it was from the blow, the officer fell? That I really believe.

Q. Who was that officer? That stripling, whom I afterwards found to be Turton; the prisoner at the bar, that stands there.

Q. What did you see after the officer fell down? I kept walking on, upon my memory he seemed to be up, with a sword or hanger in his left hand, held horizontally.

Q. Describe how you mean horizontally, was it right forward? It seemed to be horizontal; I believed fully in my conscience, it was for his defence.

Q. You speak of the sword flying out of his hand, when he was down? When he was down.

Q. Before, or after that? After that.

Q. Did you see him get up again? I did not see him get up, there were people between us, but he was soon up.

Q. What did he do when up? Advanced to the sailor, one Charles Gutherson, I believe his name was, with the sword in his hand.

Q. Left hand? Yes, in a horizontal line.

Q. As

Q. As you said in your conscience, you believed it to be in his defence? Yes, and the rattan in his right hand.

Q. You saw him with the rattan in his right hand? Yes, and the sword in his left; he seemed to have it in this manner, to keep him off as I imagined; the deceased was in a reclining posture, coming towards the officer.

Q. Who? The deceased was.

Q. Did it appear as if he was coming to strike him? It appeared so to me; I thought so in my mind.

Q. It struck you, when you saw the deceased in that reclining posture, leaning forward to strike him again? I thought it was.

Q. Did you see any more after that? I saw nothing more, I kept walking on, because my wife was just before.

Q. You did not see the issue of it? I saw the man's breast was open, and the young man that I found was Turton came from it, after he had beat him with the rattan.

Q. When holding the sword in his left hand, horizontally, he had a rattan in his right hand, striking him? Yes, the rattan in his right hand, striking.

Q. At the same time as he held the sword horizontally? Yes.

Q. What struck you, as being his meaning for holding that sword thus? It seemed to be held in his defence, to make the man keep off.

Cross Examination.

Court. You did not see the wound? As I turned back, I saw the breast open, and saw the blood run.

Counsel for the Prisoner. Give me leave to ask you how it came to the knowledge of the persons interested naturally in the life of this young man, that you saw this? I heard the sailor was dead about 10 minutes after.

Q. How did it come known to the parties interested in the life of this unfortunate young man, to know you was present, and could give evidence for him? I was going down to Chatham, to drink tea with a friend: that was the reason.

Court. The question is, how they came to know you could give this evidence? I mentioned it to every body I met in Rochester.

Q. How soon did you mention it? That very evening to twenty; some of the people, I believe, are here.

Q. Do you think from what you saw of the accident which happened, it arose from this man running upon the sword? Upon my word I cannot say that; he seemed to me to hold it forwards: I did not see him push it or

move it, but he held it from him in this manner.

Q. How came you to let them know it? I mentioned it to twenty people.

Q. What are you, Sir? I am nothing at all at present, no kind of occupation or business.

Q. Where do you live? I live at present in lodgings at Strood, my house is at Chatham.

Q. You saw the people, at first, hurry violently against the officers; what did you say? I said I thought the young man only did it in his own defence, as every one were giving their own opinion—it moved me to hear of the death of a fellow creature.

Q. What have you been? A gentleman, at your service.

Council. My lord wants to know? I was bred up to the sea, I formerly commanded one of the king's packet boats; I now live upon my fortune.

William John Madden sworn.

Q. What are you by profession? An officer in the marines.

Q. Do you know any thing of this affair, and how it happened? I was going from Rochester to Chatham.

Q. What time was it? Between 4 and 5 o'clock, the first thing that attracted my notice, was, Turton striking the sailor, who was drunk at the same time: Turton had a drawn sword in his left hand.

Q. In what position was the sailor? In what posture? He was standing, but very drunk.

Q. Did you understand from the officer with what intention he was doing it? It struck me at once they intended to get him on board, and upon that, the sailor struck at Mr. Turton, and knocked his hat off; Mr. Turton then immediately either shoved, or knocked him down: the man was so drunk he could hardly stand.

Q. Did you see Gutherfon rise again? I saw him rise again, and follow the prisoners up with his hands folded together, as if he would attack him; he followed him for the space, I suppose, of 6 or 8 yards.

Q. Did you see any thing more? I was then passing at the time, and saw no more of it till I got 20 yards farther, and then turned about; I could see nothing, there was such a crowd; I could only see through at intervals.

For the prisoner, TURTON's Character.

Captain Boucher sworn.

Q. You are a captain, I believe, in the navy? I am

Q. Do you know this young man, Turton? Very well.

F

Q. He

Q He sailed with you? He first went to sea with me.

Q What was his conduct in your vessel? I thought always extremely proper; he was totally under my direction, and with me entirely in the cabin, and to me always appeared very diligent to do what he was required, and never tyrannically disposed at all; he was two years with me, before he went into this ship.

Q During that time he behaved in a peaceable manner? Very proper manner.

Q Not at all tyrannical? No, very much otherwise.

Captain Pakenham sworn.

Q You are captain of the Camel? Yes.

Q The prisoner is a midshipman on board your ship? Yes.

Q How long have you known him? I have known him some time before he was under my command.

Q How long has he been under your command? Near 7 months, including the time of the imprisonment.

Q How long did you know him before? I knew him in some part of the West Indies, while under Captain Boucher's care, on board the Druid.

Q How long ago? Better than 2 years.

Q How has he conducted himself since under your knowledge? Very much to my satisfaction, in every part of his conduct as a midshipman and officer; if I had been upon the spot, he is the person I should have chose to send upon that duty; I was absent upon admiralty duty.

Q You say he has a very good character in every respect? In every respect a very good character.

For WEST's Character.

Q Do you know, Mr. West, the other prisoner at the bar? Yes.

Q He was with you? Yes.

Q How long? Nearly the same time.

Q How has he conducted himself? Very much to my satisfaction according to all the information and knowledge I have.

Q Do you know his family, do they live in this country? No, in Ireland.

Q Since he has been with you, he has behaved much to your satisfaction? Yes.

Q Both humane men? Both of them humane, well disposed young men.

For TURTON.

Thomas Wood sworn:

Q What was you on board the Druid? Captain's steward.

Q Do you know this young Turton? Yes.

Q What was his conduct when on board

that ship, the two years when he sailed with you? Always free and good natured to the people; and when in liquor, he has ordered them to their hammocks, instead of putting of them to punishment.

Q His conduct, in general, was that of a humane young man? Yes, in general.

Q In regard to the sailors, he behaved exceedingly kind to them? Yes; they never wanted any thing, but if it laid in his power, he was always ready to assist.

Court. You speak of Turton only? I don't know the other.

For WEST's Character.

Mrs. Pakenham sworn.

Examined by Mr. ROBINSON.

Q You know, Mr. West only, don't you madam? Yes.

Q How long have you known him? From being a child.

Q What is his disposition? A very humane man as any in Ireland.

Q Do you think he would be guilty of any thing of this kind, of any inhuman act? I don't think he would, from my knowledge of him.

Q From your knowledge of him, you think him a very humane young man? I do.

WILLIAM HENRY TURTON, Guilty, Death: but was respited by the Judges, till his Majesty's Pleasure could be known.—A Petition from the Grand Jury was sent to his Majesty in his Favor.

LUKE WEST, Acquitted.

Sentence was immediately passed upon TURTON, to be hanged on the Friday after, and his body to be dissected and anatomized.

WILLIAM ROALFE, otherwise RUFF, was indicted for, that he on the 26th of April, did, with a gun, shoot at and mortally wound Richard Barker, of which wound he instantly died.

Joseph Nicholson sworn, examined by the Counsel for the Crown.

Q You are a revenue officer? Yes, I am, I supervise the Excise.

Q Do you recollect having made any seizure, and what, at Whitstable, about the 26th of February last? Yes, I do.

Q Inform the court and jury, where you made the seizure? Upon the 26th of February last past, I had an information of some goods

goods were lodged in or near Whitstable, in this county. I applied to Captain Hugoney at Canterbury, who was quartered there, for some dragoons; I told him, I should be glad to have them on horseback; he told me, he could not comply with that, for the Cornet was out of the way, he could not let me have the horses, but he would let me have the men; I told him I should be glad to have the horses, this was about four o'clock. I took a horse myself, and told the officer to follow me, as I perhaps might find the goods before they came down, which I accordingly did. I went alone, and found them in a certain place locked up, about as big as this court; there were 110 cags of geneva, which I seized; and after that I made another seizure of 73 in a hog-stye; by and by, a parcel of men came up, three or four armed with cutlasses, took me prisoner, took away my sword, and cut me down, and kept me up in a corner, till some persons came and took away part of the tubs.

Q. What became of the remainder? I loaded them in a waggon, and went three quarters of a mile, or a mile, towards Canterbury.

Q. Had you any assistance? Yes, the officer came, and brought nine dragoons.

Q. What time was this? Near six o'clock.

Q. Were they mounted, or dismounted? They were dismounted, with no arms except swords, they had no fire arms.

Q. Had you any other assistance besides the dragoons? No, except Mr. Pope.

Q. Where did you carry those things? We proceeded towards Canterbury; and nothing happened in my going, although I saw several people armed, till I came to Boston Hill, near three quarters of a mile on the road, when we were going up the hill, a body of people fired in the air; I told the man that drove the waggon, that I believed they only did it to intimidate us; he said no, I don't believe they mean any thing else.

Q. How many people were there? I don't know the number, they seemed to be a large company.

Q. How far had you got, before you discovered any body? I had got but a little way before I discovered some body, I did not know they meant to do us any prejudice.

Q. As to the number, can you give any rude guess? There might be thirty or forty.

Q. Had they any guns? I should think there were thirty armed with guns, some not armed.

Q. What did they do? They fired upon us.

Q. Without first coming to demand any thing? They never spoke to us at all, I could not believe they had fired among us, till the two men fell, which were Richard Barker and John Aikin, two of the dragoons.

Q. Did they fire more than once? Yes, they did.

Q. How often did they fire? I really cannot ascertain that.

Q. How many times did they fire, before any body fell? Both the men fell by the first fire. There were two more wounded, another shot through the hand, and a horse wounded in the foot, which died.

Q. Was you near them? I was.

Q. Where were they when they were fired upon? They were rather behind, but some on one side, some on the other.

Q. When those people fired, did they say any thing? Not immediately; they came about 5 or 6 minutes after the firing was over, and insisted I should carry the goods back again. I told them I could not; the man that belonged to the waggon then slipped the horses out, and took them away.

Q. Before the firing or after? After the firing.

Q. What became of the goods? The goods were taken away by several people.

Q. Other people came afterwards? A great many.

Q. Did they say any thing? They said it signified nothing the loss of one man or two, for they had lost three.

Q. There was no firing upon them, was there? No, a few days before they said they had lost three themselves.

Nicholas Pope sworn.

Q. You are the other officer; I think, that went with the last witness? Yes.

Q. Who did you take with you? I took the dragoons out of Canterbury, between four and five o'clock in the afternoon.

Q. Was Richard Barker one of them? Yes.

Q. What quantity of liquor did you seize? When I come to Whitstable, I found Nicolson in possession of a large quantity, he told me he had 183 tubs of geneva.

Q. Which way did you go? The men rode down Boston-hill.

Q. To go to Whitstable? Yes.

Q. Was you attack'd upon that hill? I was not there when we come to Whitstable; I found Nicolson, he told me he had been a good deal abused, and had his sword taken from him, he had made a seizure, and got a waggon and brought them

them away, but before they had got to the hill they fired.

Q. Who did? The company of people, the smugglers fired up in the air.

Q. What was the number of that company? I don't know, they was some distance behind me, there might be 2 or 3 guns.

Q. Did they approach nearer to you? They did when they got about half way up the hill, they got nearer, there was 30 or 40 or upwards with guns, there was a number more that had not guns, I cannot tell how many. They fired after us as we were going up the hill, and upon that firing two of the men were shot, one of the men I saw drop, which was Rd. Barker, he was not quite dead.

Q. Did Barker fall by the firing of that company? He did, and died in about half an hour: I went to him, he said he was terribly wounded, and must die; I told him I hop'd not; I staid there the whole time till he died.

William King sworn.

Q. You were one of the dragoons that went upon that service? Yes.

Q. What part of the waggon was you at when you went up at Boston-hill? At the tail of the waggon.

Q. What number of people was there, when you first saw them? To the best of my knowledge 14 or 15.

Q. They fired into the air? Yes, from which we at first imagined it was only to frighten us to stop the waggon, and have the goods back, they followed us going up the hill, there was double the quantity there was before, they were armed with guns and fowling pieces.

Q. Did any of them say any thing to you? One come just behind me, he did not speak to one more than another: he said, D—n your bloods, if you don't stop the waggon immediately we will fire upon and kill you. Another said, D—n your bloods, fire! mind your mark, mind your man. I was going up the near side of the waggon, as they begun to fire, Rd. Barker dropt by me, and cried out in a terrible manner; I went to the other side, and saw John Aikin lay shot thro' the head, the blood run and spun out of the place, just as if he had been stuck.

Q. Did any thing else pass? When we came together, the officer and what men we had left, were talking of what had happened; they got on and unloaded the waggon, gave us two tubs to drink, knock'd out the head of another for us, and shook hands with us. One asked for me, in particular, and when he spoke to me, he said he was glad it did not happen upon me, he was sorry for my comrades, and wished it had

happened to the officer: one of them held his gun up, and said, D—n your blood, I have a good mind to blow your brains out now; another held his hand out, and prevented it; what happened afterwards I don't know.

Robert Minter sworn.

Q. Where do you live? At Whitstable.

Q. Do you know William Roalfe, the prisoner at the bar? Yes.

Q. Do you recollect an affray happening in February last between the Custom-house officers and smugglers? Yes.

Q. Did you see the persons go up Whitstable-street, to Boston-hill, with guns? Yes.

Q. Do you know Roalfe, did you see him? Yes.

Q. Which way did he go? Up Boston-hill.

Q. Did you hear the firing? No.

Q. What time was it you saw him? I cannot justly tell, it might be between 4 and 5 o'clock.

Q. Is he an inhabitant of Whitstable? No.

Q. Did you hear him say any thing? Yes. He said he would do the best he could to kill one man, I went away.

Q. Was this before you went or after? Before.

Q. Where was this? About three parts up the street.

Q. Was he walking along at that time? Yes.

Q. Had he any thing with him? He was at that time carrying a gun.

Q. Did you see where he went? He went up the hill and another young man.

Q. Did you see him afterwards? Yes, about the mid way between the hill, and Whitstable-street.

Q. When it was over, did you hear him say any thing? He said he would do the best he could, to kill one man.

Q. Were there only those two together? The others were gone before.

Q. How many of them did you see before? I cannot tell, there might be fifteen or sixteen.

Q. Did he say any thing after he came down? Yes.

Q. What? He said, he believed he did kill one man.

Q. How soon after you saw him go up, did he come back again? I cannot tell, a quarter of an hour or more.

Q. Did he come by himself or with others? By himself.

Q. What became of the rest? The rest were down upon the side of Mr. Reynolds's house.

Q. Who is Mr. Reynold's? He is a smuggler.

Q. What were they doing there? They got talking

talking to one another what they had done, but I did not hear them.

Q. Do you know what became of the goods? No, I cannot tell, but I saw some go into Reynolds's house.

Cross examined by Counsel for the Prisoner.

Q. Where do you live? At Mr. Bushell's, Whitstable.

Q. What time of the day was this you speak of, when first you say, you saw Roalse? Between four and five o'clock.

Q. Now you said, he was no inhabitant of Whitstable? Not as I know of.

Q. If no inhabitant, how should you be so well acquainted with him? Because I had seen him in the place before occasionally.

Q. Now when you spoke of seeing him in the street, there was a body of people if I understand you right, they were gone up before? Almost all of them that had guns, only one or two followed, when I saw him there was another young fellow with him.

Q. How long before were the others gone? I cannot tell, I believe ten or a dozen rods before them.

Q. This man was not likely to walk very fast? No, he did not walk very fast, he walked very slow then.

Q. If you know him well, you know he has some defect as to his walking? Yes, he walk fumble footed.

Q. They were at a distance before, where did you go then? I went home to get some small beer.

Q. You have told us of the expression, that he would kill some body, you did not give much faith to that? Before I heard him say that, I got the small beer, and then went up Whitstable-street, after I heard him say he would do the best he could, to kill one man.

Q. Did you tell any body of this? No.

Q. You might not attend to which of those people said any thing of that kind? Yes, I heard him say so.

Q. How came you to recollect it now, because a conversation, that you paid so little attention to, as not to interrupt your getting your beer; how came you to recollect this conversation, at this distance of time? I kept it in my head ever since.

Q. Did you tell any body else? No, I told that man (pointing to the officer).

Q. When did you tell him this? Just before I came here, upon the Monday.

Q. Never before? No.

Q. You kept it in mind from the time of the accident, till then? Yes.

Q. How long was you between drinking your small beer, and going up? Three or four minutes.

Q. How far is Boston hill from the place, where this conversation passed between these two men? It might be rather better than a quarter of a mile.

Q. This was in Whitstable-street? Yes, just at the upper end, coming to the hill.

Q. Is Boston hill where the man hangs in chains? Yes.

Q. Surely, my lad it is a full mile? Where he hangs, do you mean?

Q. Aye? Yes, it can only be the difference of the length of the hill, about a quarter of a mile.

Q. That hill is not very long? No.

Q. Where was the affray, was it not on some part of the hill? Yes, about the mid-way of the hill.

Q. Then the mid-way of the hill from the top, is not 100 yards, the 6 mile stone stands just at the top of Whitstable-street? No, a little way on.

Q. What do you mean by saying it was only a quarter of a mile, where you heard the conversation, when it was in the street, was it not? Yes, just at the upper end.

Q. And the waggon was in the mid-way? Yes.

Court. Did you hear the firing? No.

Counsel. You went to meet them you said, you were about three or four minutes before you went? Yes, before I went, they said the firing was all over; I was afraid to go up for fear they should shoot me, I thought I might as well stop there.

Q. You did not hear the firing? No, I did not.

Q. Afraid as you was you went up? When the man told me it was over, I went to Mr. Reynolds's.

Q. Whereabouts is that? In the upper part of all the street.

Q. Who did you meet? I met William Roalse.

Q. Any body else with him then? No, the other people were at Whitstable.

Q. What, do you mean by the other people, Whitstable people? Yes.

Q. He was alone, and not with the generality of them? I don't know where, some were behind and some before.

Q. Did you go forward after you saw the prisoner, or go back? Yes, I went up higher.

Q. Then you was not so afraid as you spoke of? Not after the firing was over.

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Q. As

Q. As you went farther, did you meet any other people coming down? Yes, I saw some of the Whitstable people coming down, I cannot tell who they were.

Q. How come you to be so afraid, when your neighbours were there? It was the vessel's crew.

Q. Was not you evidence upon the former trial of the man that has been hung, he was not of the vessel's crew? He went up with them.

Q. He was a Whitstable man? Yes.

Q. What do you mean by saying the vessel's crew? There were some Whitstable people; he went down to Hearne bay, to help heave her up.

Q. Do you know how many people the vessel carries? I cannot say justly.

Court. Have you been at sea yourself? Yes.

Counsel. How many do you think? I think there might be 16 or 17.

Q. How comes it you are so particular? you spoke of a number of Whitstable people, whom you saw, none of whose names you know, who were your neighbours at Whitstable; and how can you undertake to swear to that particular man, who was a stranger to you, when you tell us, there were so many Whitstable people, whom you must know, personally, and yet whose names you don't remember? I had seen him before several times.

Q. But you had seen your neighbours often? Yes.

Q. How comes it that you happened to take so much notice of him, more than the Whitstable people? I knew him by his face.

Q. You know the Whitstable people, by the head and feet, and every part about them? Yes.

Q. Then you know them much better than him? Yes.

Q. How came you to be so ignorant of the Whitstable people, and undertake to swear so positively to this man? I cannot tell who they were.

Q. How far were you from the man? When I said, I heard him say, he would do the best he could to kill one man, I might be as far off as that man [pointing to a person about 3 yards distance.]

Q. Were they close together? Yes.

Q. How can you swear the words came from him, rather than from the other person? The other said, he would do the best he could too.

Q. You said something about his coming down alone? Yes.

Q. So there he could not have this conversation; you mentioned his saying something afterwards? He said, he believed he had killed one man.

Q. Who did he say that to? He said it to his own men.

Q. He came down alone? Yes, but when he came to Mr. Reynolds's, he was with them.

Q. How many of them might be there? Ten or a dozen, I cannot tell rightly.

Q. Whitstable people, or boat's crew? Boat's crew.

Q. You who were frightened before, how came you to venture amongst those strange men? The firing was all over.

Q. They had their guns? Yes, some of them.

Q. How can you undertake amongst this number of men, the boat's crew, to swear to any words this particular man said: there was a dozen of them, I think you say? Yes.

Q. Many of them strangers to you? Yes.

Q. You had no connexion with these people? No, I had not.

Q. How came you to join this company? I did not join them.

Q. If you did not join this company, among this number of people; how came you to undertake to swear to an expression of that particular man? I stood just by him.

Q. You could not then foresee that you would be evidence upon this occasion; by what accident is it that you remember you was just by him, more than at any other place? I stood there talking to another young man.

Q. If you stood behind him, you could not see his lips go? No.

Q. How can you take upon yourself to swear positively, upon your oath, so as to affect the life of a man, who was only one of a dozen people? I could hear.

Q. Consider, you are now giving an evidence that must, in its consequence, if believed, take away the life of that man; therefore, consider when you were standing behind him, and you could not see his lips go (there being a dozen people there, most of them strangers to you) how can you undertake to say he was the man? He was.

Q. What brings this man backwards and forwards to Whitstable: what business has he had there? I don't know.

Q. How often have you had an opportunity of seeing this man backwards and forwards? Four or five times.

Q. Had you observed him particularly before? Not to take notice in particular.

Q. Have you any doubt about the person of this man, are you certain you know him, look at him again—do you know him perfectly? Yes.

Q. Did you see him go up the hill? No, I did not, I saw him come down, Q.

Q. Did you see him go towards the hill?
Yes.

Q. Did you hear him speak those words you mention, before you went up? Yes.

Q. Then you saw his face? Yes.

Q. Did you know his voice when he came down? Yes, I believe I did.

Q. How far was you from this man, when he was at Reynolds's house; you say you was behind him? It might be two foot.

Q. If I understood you right, you was witness against Knight, at the former assizes? Yes, I was.

Q. Did you give evidence then against any body else, besides Knight; was you examined by the grand jury? I cannot tell, I believe I was.

Q. Did you go before some gentlemen in a room? Yes.

Q. There were several other people, besides Knight, charged with being concerned in this rescue? Yes, several others.

Q. Did this man belong to the boat? Yes, he belonged to the boat, and went in her.

Q. How long had he been in her? I heard say, that was the first voyage.

Q. Was you in her? No.

Q. Do you know all the people that belonged to the boat? No, I do not know all.

Q. How many were in the boat you knew? Five or six of them.

Q. You knew Roalfe among them? Yes.

Q. How many voyages had he made? I heard say, that was the first voyage he went in her; I don't know whether he went any more.

Q. You had seen him often enough to know his person? Yes.

Q. Did you know his name too? Yes.

Q. Then tell me how you came not to mention this before? About what?

Q. About Roalfe; when did you first mention Roalfe's name, as being one? I cannot tell that.

Q. I desire you would tell when you first told? I don't know.

Court. Tell me and the jury, why you did not tell of Roalfe, when you told of the others; I must have a reason for that, and a true reason? I am sure I cannot tell you, because they never asked me before.

Q. Did they not ask you to tell all you knew? Yes.

Q. How came you not to tell of Roalfe? Because they said the people had told that know'd him, and I thought I had no call to tell of him.

Q. Was it not right to tell all you knew? I speak all I know, I cannot speak any more.

Q. You never told of this till you came here to any body, that Roalfe was one of them? I told of him at Canterbury.

Q. When did you first tell of him? Last Sunday.

Q. Did you never mention it to any body till last Sunday? No, not to the Whitstable people.

Q. Did you ever tell it to any body else? No.

Q. Did you tell it to Mr. Hasted, the Justice, that he was one? Yes.

Richard How sworn.

Q. Was you at Whitstable at the time this matter happened at Boston Hill? Yes, I was.

Q. When was it? Upon the 26th of February last.

Q. Was you upon the hill when the firing was? I was close to the waggon, I ran up close to her.

Q. Was you upon the hill near enough to see the firing? Yes, I saw one that fired.

Q. Do you know William Roalfe? Yes, I went a voyage with the boat, it was a shallop, and Mr. Reynolds was owner, Jemmy Rue was master of her; I saw that man there.

Q. Did you see Roalfe upon the hill with these people? Yes, I knew him.

Q. Had he a gun in his hand at the same time? He had one.

Q. Did he level that gun amongst the rest? He was amongst the first platoon that fired; whether he fired or not, I cannot tell, I did not see the man fire, he had a gun, as to firing I cannot tell.

Q. After the firing, what did you see immediately afterwards? After that, I went up upon the right hand side of the waggon, and saw the dragoon lie dead; I went on the other side, and saw a man, laying upon his hands and knees, wounded; they made two volleys.

Q. Was Roalfe in company with them then? I never saw Roalfe, only in the first time; I never saw him afterwards.

Q. What became of those that fired first; did they retire? They retreated.

Q. Did any other party step forward and fire? The others came forward to fire, Jemmy Rue said, you bougers, fire.

Q. You said, upon that first fire, those two dragoons were killed? They were killed upon the first fire.

Q. Did you see this man, William Roalfe, two months ago? I saw him at Little Hampton.

Q. Where is that? It is down to the Westward.

Q. What

Q. What did he belong to? To one of our fishing smacks, or drudging vessel; there was a man went, and told me he was there; when I went he hung his head down, so; that was on Sunday, on the Monday morning this gentleman had him.

Q. It is about two months ago? About two months as far as I can guess.

Cross Examination.

Q. What carried you to this place? There was a great many more besides me, I went merely as a fool, and it has brought me into a great deal of trouble.

Q. Where do you live? I live at Whitstable.

Q. What are you? A drudge man with oyster smacks.

Q. You have not been much out of pocket? No; I must speak the truth, you know.

Q. You saw the firing in which the two men were killed? Yes.

Q. You went first on the one side, and then on the other of the waggon? I went on both sides of the waggon.

Q. How far might you be of? About 6 or 7 rod, they were almost close to the tail of the waggon.

Q. Who were? The people that fired.

Q. Where did you stand in the road? I stood in the horse road, the same road the waggon was in.

Q. Of course, I think, for your own safety, they must have their backs to you? I think I should not stand before them.

Q. They stood with their backs to you? Yes.

Q. What number of men were they? Seventeen men belonging to the shallop were under arms, as nigh as I can guess: there were a great many people besides there; there might be a 100 or more, women as well as children.

Q. What reason had you to take particular notice of this man? I took no more notice of him, than I have of the other people. I can swear, I think, to them.

Q. What time of the night was it? Between 6 and 7 o'clock, about half after 6 they were on the mid-way of the hill.

Q. On what day of the month? The 26th of February.

Q. It was dark then? It was not vast dark, I might see 6 or 7 yards.

Q. You said you were 6 or 7 rod from the tail of the waggon? Yes.

Q. I believe the waggon did not set out from Whitstable till it grew dusk? It was not dark.

Q. It was 6 or 7 rods off; it seems difficult in such a case as this, to tell who fired in parti-

cular? You don't hear me say, I saw this man fire.

Q. For the same reason it might be difficult to see amongst a dozen of people? It was dusky, it was not dark.

Q. Then you gave the information of course? I did the last assizes.

Q. Did you give information against the man convicted then? Yes.

Q. Did you give the information against this man then? Yes, before the grand jury; I told it to 6 or 7, I can mention every man's name.

Q. What is your name? Richard How.

Q. Was there any bill against any of the other people? *Clerk of the Arraigus.* There was against Knight, and 7 others.

Counsel to the Witness. Are you quite sure, Wm. Roalfe was one among the party that fired first? Yes; after the second fire I went up to the waggon.

Q. At the time the first platoon was fired, Roalfe was in company with them? Yes.

Q. Had he a gun in his hand? He had a gun.

Q. How long might you have known Roalfe? I might know him a twelvemonth, or two or three years.

Q. Had you ever served on board the vessel with him? I never sailed along with him.

Q. You are quite sure he belonged to the crew? Yes.

Q. And you are sure you saw him with a gun? Yes.

William Spraggs sworn.

Q. What are you? An extra man of the custom-house; on the 17th of May last I was at Little Hampton, where I saw Roalfe on board his boat, when I took him in the drudging smack.

Q. You went to take him, you say? Yes.

Q. Did you tell him what you came for? I know'd him before, and ask'd him if he was not one of the 17 people that did the murder upon Boston-hill?

Counsel for the Prisoner. Did you give him any hopes of being admitted an evidence? Yes.

Q. You had given him hopes before you said anything to him? Not before he had repeated the words to me, I am going to say—

Court. Tell the conversation that past? I will tell the whole he mentioned to me; he knowed my name; he said, William, I own I am one, my conscience has prick'd me so, I wanted to tell it somebody; that was after I took him into custody, before I charg'd him with a constable. I and another man took him out to the door, and he told me he was one of the men that

that took arms, and went up the hill, and discharged his piece only once.

Cross Examination.

Q. What was there said about being evidence? He mentioned these words: I hope, says he, if I resign myself up, that I shall have the opportunity of turning king's evidence, have the king's pardon, to impeach against the rest. I said, I could say nothing to that; but after he was going to the gaol, I wrote, and sent to the Custom house at Canterbury.

Q. Did you tell them there, what he said about hoping he should be a witness? Yes, in the letter.

Q. Did you promise him, before he told you any thing, he should be a witness? No, I did not; it was after he had been before the justice, he wanted to turn king's evidence.

Q. Did you know him? No.

Q. Do you now mean to tell us, and, that the jury should understand, and believe, this man told you he had been guilty of this murder, without your giving him any hopes, or any thing that would lead to it, when you was an utter stranger to him, and he never heard of your name; you say, he told you of his having committed the murder, without your giving him any hopes? Yes.

Q. Did he not say he was the man that committed the murder? He confessed the charge.

Q. You gave him no hopes? No.

Q. But he told you after you accused him of the charge? Yes.

Court. If true, the only reason was his conscience affected him.

PRISONER'S DEFENCE.

I have nothing to say, only I was not the man that did the murder; I had no powder nor shot, nor arms, when the murder was done; I was not at the place.

Court. If you can shew the jury you was not at the place, it will be a full defence.

For the PRISONER.

Stephen Sterry sworn.

Q. Where do you live? At the lime kilns of Mr. Francis.

Q. You know the prisoner? Yes, I have known him, and his father and his grandfather before him: I know him more particularly, because he has worked at Francis's.

Q. How many years did you know him? I knew him from his childhood.

Q. How many years do you know him working at Francis's? He always worked there till this last 12 month or two. I have been there 38 years.

Q. What is his character? Very good, he always behaved very well; he bore a very good character as a working man.

Q. What age is he? About twenty-four.

Q. Do you know where he went when he left you? No, I cannot tell; he said, when he went from the brick-yard he went to privateering.

Q. What kind of business did he do? Moulding of bricks.

Q. In this capacity you know him as an honest man? Yes.

David Shrubfor sworn.

Q. What are you by business? A blacksmith?

Q. How long have you known the prisoner? I have known him ever since he was a child.

Q. You live at Canterbury? Yes, in the same parish. I remember him working for Francis; he is a very honest man, I always worked with him till about a twelve-month.

Q. I need not ask you, whether you have any reason to think he would be guilty of any thing of that kind? No, that I have not.

Q. You know nothing of him for these last 12 months? No.

Guilty, Death.

JURORS ON Wednesday, July 9, in the Afternoon, who likewise served the next Day.

John Sampson	John Osmore,
John Bennet	John Lovegrove,
Horton,	Wm. Townsend,
Robert Goddard,	John Hatch,
James Howe,	John Norwood,
Philip Osmond Os-	John Allen,
bourn,	Thomas Fisher.

THOMAS BLITHE, was indicted for killing and slaying one Thomas Yilder, by giving him one mortal wound on the 5th of May, 1780, of which he languished till the 21st of the same month, and then died.

William Lloyd sworn.

Q. Where do you live? I live at Woolwich.

Q. Do you know any thing of the death of Thomas Yilder? Yes, Thomas Yilder, and I were going home between ten and eleven upon

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the 5th of May, we stopped at the Mason's Arms, kept by the prisoner, to get a pot of beer; the deceased knocked at the door, the prisoner asked who was there, Yilder said he wanted a pot of beer; Blithe told him he would not draw him any: says Yilder, if you will not draw me some inside, draw something out; with that Mr. Blithe went up stairs and threw some water upon Yilder; I complained of this usage, I said never mind, let's go home; he took a handful of mud and threw it up against the window, but never broke it. Mr. Yilder and he talked very handsomely to one another, with that Mr. Blithe went in doors again, and could not get Yilder away, he said he would not go without he could get something to drink; Blithe came out and talked to him, and he advanced to him, and with his right hand struck at him, and broke his jaw bone.

Q. Was there any discourse after? A very little.

Q. Was it the discourse that provoked Blithe? I don't know, I saw Blithe strike him with his right hand.

Q. Upon what part? His left jaw, he knocked him down and broke it; upon that, I run and took hold of Mr. Blithe by the coat, while I was talking to Blithe, Yilder got away and got down the foundation prepared to build a house; I asked him how he got there, he said he slipped down, because nobody should do him more mischief than what he had got; I asked him what other damage he had, he said no other damage but his jaw-bone broke, I got him home, I never saw any thing more.

Q. Was there any ill language in what you call handsome, talked between Blithe and Yilder the last time? No.

Q. What made Blithe strike him the last time? I cannot say.

Q. Who struck first? The young man never struck at all.

Cross examined, by Mr. MINGAY, for the Prisoner.

Q. I believe your companion Yilder was in liquor? He was not in liquor, but quite sober.

Q. How deep was this hole? About 5 or 6 foot, I never measured the hole.

Q. For ought you know, it might be deeper? Yes it might.

Q. How long was he down this hole? It might be about two minutes.

John Pigot sworn.

Q. What are you? I am a surgeon, I was sent for on the 6th of May to see this man, when I

went, I found his left jaw broke, and a stroke across his breast, I thought it done with a stick; it was swelled; he had a blow upon the forehead on the left side, which left the bone bare, and run about half an inch upwards; he had a stroke likewise across the crown of his head; he had a vomiting upon him, he had such a shortness of breath, he could hardly breathe, and spit blood, and complained of his head; from a bleeding and other evacuations; but the symptoms of the concussion of the brain began to appear about Monday.

Q. When was this? On the Saturday I was sent for; upon the Monday the fever began to encrease, it was very high, I would have trepanned him, he said he would not be trepanned at all; the constable said, Justice Ruffel desired if I found any symptoms of death, or danger, I would go over and make oath before him. I went over to Justice Ruffel, the symptoms encreased constantly; on Thursday he lost the use of his feet, and he died upon Sunday morning after. I opened his head, a vast quantity of matter issued out from the *dura mater*, he lived a prodigious while after the symptoms were such as shewed him to be past all recovery.

Q. Which was the occasion of his death? The wound on the head; he told me he went to get some beer there.

Q. What in your judgment was it that killed him? It came from that blow upon the forehead, that was the occasion of the death, I am pretty sure.

Court. It is said his jaw-bone was broke? His jaw bone was broke, but did not occasion the death, nor the blow upon the breast, he could swallow tolerably well.

Cross Examination by Mr. MINGAY, for the Prisoner.

Q. What is this about the *dura mater*. Is it not possible if a man falls down a place 7 or 8 foot deep, he may get a concussion of the brain? He may.

Q. [To Lloyd.] How many blows did you see struck? Only one blow.

Q. What was the effect of that blow, did he come down? He fell down.

Q. How did he fall? I cannot say.

Q. What sort of ground was it? Stones.

Q. Did he fall upon his arm, shoulder, head, or how? I cannot tell, he told me he slipped down.

Q. [To the surgeon.] How did you describe the appearance of the wound? It must be given rather in an upright position, it could not be by falling

falling down, the blow run upwards, the scalp was from the bone about half an inch, I cut that part of the scalp away.

Q. Could that have broke his breast-bone? He certainly must have had more strokes.

Counsel for Prisoner.

He had a broken jaw-bone, a scalped head, and a blow upon the breast and only one blow is proved. *The prisoner was not called upon to make any defence.*

ACQUITTED.

The same Jury as were impannelled Yesterday; Thursday Morning.

ROBERT BUTLER was indicted for the wilful murder of James Nelson, by striking him on the head with an iron poker.

John Manningham sworn.

Q. What do you know respecting the murder of James Nelson? On the 21st of May, between 11 and 12 at night, the prisoner came into the barrack room, James Ward asked him who came there; we were all in bed; the prisoner made no answer; the deceased asked who comes there, what, Butler? he did not give him any answer. James Nelson said, I suppose you have been drinking. The prisoner replied, If I have, it is with none of your money; Nelson said no, he did not desire it should, for he spent his money fast enough himself. Then the prisoner said, if you don't hold your tongue, I will settle you. Nelson called the prisoner a white livered dog, and said he thought he might do it while he was in bed, but if he was up he could not; he desired him to go to bed, and gave him all good words to go to bed, and not to have any disturbance in the room.

Q. Were you two in bed? Nelson was in the same bed with me, for my part I was dozing in sleep, Butler went to his bed, I saw him go to his bed. Soon after I heard some great noise, and I turned myself to see what was the matter, and I saw Robert Butler stand over him with a poker, he had struck him once, before I awaked, the sound of the blow waked me.

Q. What did you see him do, after you waked? After that, I saw him hold the poker in his double hand in this form, and struck him again; then before he could strike him a third blow, I got my arms under him, and turned him to me.

Q. Did he offer to strike a third blow? Yes,

he struck a third blow, but never spoke; I had got my comrade Nelson, and drew him to me, and by my drawing him to me, the next blow came against the corner of the bed-post and did not touch him; I called to one Buchanan the next bed to me, and said come and help me up with Nelson, for I believe Butler has killed him with a poker. Butler did not give me any answer, as soon as ever Buchanan came, he repeated the same words, what a rascal you must be to kill the man with the poker; before Buchanan could come there, he went round the end of the table, there is a table between the bed and the fire place, and set the poker down, and it fell across the sinder.

Q. He set it down by the fire place? Yes, it fell across the sinder, and then he jumped into bed with his breeches on. The serjeant came, I said Butler has killed Nelson with the poker, he said I was a lying bougre, it was an Irishman's good fit; then the serjeant of the guard said to some of the guard, go and get a light, as there was no light in the room before, except the light that came into the window, there was no candle in the room; the bedstead was close under the window, the bedstead stood between two windows, one at the head and the other at the feet, and it stood sideways against the wall.

Q. Did any light come in at that time of night? Yes, there was light enough did come in, as I could see any man, in any part belonging to the room, especially if he was in his shirt.

Q. Should you have known there had been a poker in his hand, if you had not heard it fall against the sinder? Yes, by the stroke; I should not have known it, if it had not sounded against the corner of the bed post, that last blow.

Q. Then, by that you could only know he struck with something? No, not before that, I could not tell what it was he struck with, before that.

Q. When the light came, what condition did you find Nelson in? He lay flat upon his back and his head turned upon one side bleeding; I was all bloody with helping him up.

Q. From what part did the blood come? From out of his mouth and ears, the skin not broke as I could see; I washed him all over.

Q. Was he alive? No, I never perceived him stir after I got him up in my arms.

Q. Could you perceive where the blow had fallen? Yes, just upon his left ear, there was a mark of the flat of the poker, just by his left ear.

Q. Had there been any ill blood between these two people? No, they gave each other the lie.

Q. When

Q. When did the prisoner give Nelson the lie? The prisoner told him, I will settle you: aye, said Nelson, I suppose you might in bed: says he, I could if you was up; no, said he, you cannot: you are a liar, says he, I could if you was up.

Q. Mr. Manningham, are you quite sure you saw the poker? Yes, I did, I should be very sorry to come here to tell a lie; I have no ill will against Butler, nor the other, I never disagreed with them, I come here to speak the truth.

Q. You said the stroke of the poker awoke you; if you was asleep, you could not tell whether it was a blow with the poker or what else? No, by the time I might turn myself, he had not time to go to the fire place, to fetch the poker from thence.

Q. How far was the fire place from you? Two or three yards.

Q. There was a mark made with the poker under one of his ears, a black mark? Yes, I am no doctor.

Q. You mean such as a black eye? No, only the black that came off the poker.

Q. There might be some dirt upon his head, but can you swear that was a mark of a poker? It seemed to me to be so.

John Buchanan sworn.

Q. Was you in the room with the deceased and the prisoner? Yes.

Q. Relate what passed? Robert Butler came into the room, between the hours of 11 and 12 at night, to the best of my knowledge; I was in a doze, I could not tell what past between my comrades, till James Ward asked, who came there; he made no answer: James Nelson said who comes there? he made no answer: he said, is it Butler? yes, said he, it is: said he, go to bed, good lad: Butler said, I will, as cool as a cucumber: said Nelson to Butler, I believe you are drunk: if I am, said he, it is not at your cost: Nelson made answer to Butler, no, said he, I can spend my money fast enough, upon myself, I heard no more; I took no farther notice of the dispute, till I heard Nelson say to Butler, you are a white-liver'd dog, or rascal, I cannot tell which: says he, if I am a white-liver'd dog, I will soon settle you. I heard no more pass, till I heard three blows.

Q. How soon after this last expression was it you heard the first blow? I dare say it was above a minute; the next thing I heard, was the three blows, given quickly, one after another; I judged the blows were given with a fist, but I heard afterwards a poker, or tongs, or some such thing fall by the fire side, and I called to Nelson;

I thought he would rise in his own defence—I said, Nelson, Nelson: he made no answer, and I jumped out of bed, from the side of my comrade, James Ward; I went and laid hold of Nelson by the two shoulders; I said, Nelson, speak Nelson; I said to his comrade, help me to lift him up; he did, and his head fell loose, which every way his body leaned; says I, the flayer is coming out of his mouth; it was dark, I could not tell what it was: when the light came, I perceived it blood, coming out of his mouth, nose, and ears; I said to Butler, are not you a rascal, to kill a man, laying in bed, with a poker? a man in the room said it was a poker, I was not sure—he made answer to me again, you lie, by Jesus, it was a good Irish fist, and if you don't hold your tongue, I will serve you in the same manner: I heard no more.

Q. There was a poker in the room? Yes, there was a poker in our room, the constable has got it now.

Cross Examined by Mr. MINGAY.

Q. You heard three blows, you thought they were given with the fist? I was not sure at first, I thought they were.

Q. If you had not heard the poker fall down, would a poker have entered into your head? Certainly not.

Q. It was dark? Yes.

Q. Till the light came, you could not discover the situation, except the head being loose, and he could not speak? I heard no breath coming out of him, and I clapped my head to his to hear it.

Court. You heard nothing but a stroke fall upon the man? No, nothing else; the last stroke made more ringing than the rest; the two first sounded hollow, as if they were upon the bed cloaths.

Q. The other was very distinct? Yes.

James Ward sworn.

Q. Was you in the room with these people? Yes.

Q. Do you remember what time Butler came in? Yes, I do.

Q. Nelson was in bed? He was.

Q. Who first spoke to him? I asked who came there, he made no answer; the deceased asked who is there, is that, Butler; he said, Yes. Then he asked him to go to bed; he said, I will as cool as a cucumber. Says Nelson, I believe you are drunk, will you go to bed? Yes, I will, says he.

Q. What else? Nelson call'd him a white liver'd dog.

Q. What

Q. What did Butler say to that? He said, if I am a white livered dog, I will soon settle you.

Q. How soon after did you hear the blows? About 2 or 3 minutes.

Q. Were they repeated quickly one after another? I heard the blows, and saw the prisoner stand by the bed side.

Q. How near was you to it? I was within a yard of his bed.

Q. Did you observe any difference in the blows, in the manner of their being given? Yes, I did, to the best of my opinion, I think the last blow came against the bed post.

Q. With what was it, a blow of the fist? I cannot tell.

Q. I should think it easy to distinguish, whether it was the noise of a fist against the bed post, or of any instrument a man might have in his hand? It sounded like something hard. I saw the man walk off, and as he went by the fire-place I heard something drop.

Gustavus Erwin sworn.

Q. Are you a surgeon? Yes.

Q. What time was you call'd to see Nelson? I believe about 12 o'clock, more or less.

Q. Did you examine the body, to see what occasioned his death? I did, and found a very large bruise upon the left side of the head, it was extended from the neck bone to the temple bone, upwards, and likewise from the cheek bone to the ear.

Q. In what direction did it go, in a straight line? No, not in a straight line, there appeared to be more than one blow, by the appearance of the direction of the marks. I opened the head the next morning, and found a coagulated extravasation upon the back part of the skull; and, I believe, the violence of the blow that occasioned the extravasation, did occasion, and was the cause of his death.

Q. How was the skull? Not fractured at all.

Q. How was the skin? Externally it was bruised, but not broke.

Q. From those appearances in and upon the head, you have no doubt they were the cause of the man's death? I believe they were.

Q. Can you form any judgment in what manner those bruises must have been received? I cannot.

Q. Particularly, as to the question before us, whether it was given with the fist or poker? I rather suspect it must be given with something larger, stronger, and of more weight than the fist.

Cross Examination.

Q. You say, you rather suspect they were given with something stronger than the fist; is it not possible for a man, with a hard blow, to produce with his fist an extravasation? I believe it is.

Q. Then a hard blow with a fist might have occasioned his death? It might.

Q. It might have occasioned the same symptoms? Not one blow, several might.

James Ramsay sworn.

Q. What do you know? I have got the poker.

[He produced it in court, a middle sized iron-poker.]

Question to Mr. Erwin. The wound had been washed before you came? No, it had not.

Q. Did you discover any other appearance upon the wound than what you mentioned? No other.

Q. There was some account of some appearance given? There was some black appearance from the blows.

Q. Only from the blows? Only the blows.

PRISONER'S DEFENCE.

My Lord, I am quite innocent and ignorant of what is laid to my charge. I know nothing at all of his murder, nor never did strike him, nor no man else, nor had any antipathy; I am quite ignorant of what is laid to my charge, and that my prosecutor knows.

Court. Have you any witnesses to call?

Prisoner. No, my Lord.

Guilty, Death.

A LIST



A LIST of the other PRISONERS.

JOHN RYAN, was indicted for breaking in- to the dwelling house of James Lashtords, in Minster, in the Isle of Sheppy, and stealing thereout, three guineas, &c. &c. *Acquitted.*

James Hicks, was indicted for breaking open the dwelling house of George Nelson, of Gillingham, and stealing thereout, a hat, a shirt, a pair of breeches, &c. *Acquitted.*

William Mason, was indicted for assaulting on the King's highway, — Lefevre, and robbing him of one guinea and a half. *Guilty.*

Love Jackson and **Lydia Jackson**, were indicted for stealing out of the shop of John Maiden, of Strood, twenty pair of stockings, eight silk stockings, &c. &c. *Lydia Jackson, Guilty.*

William Grant, was indicted for feloniously stealing out of the shop of Mary Allen, of Woolwich, two pair of men's shoes. *Guilty*, to the value of 4s. 6d.

John Mackonnegal, was indicted for stopping on the King's highway, and knocking down, James Rust, of Chatham, and robbing him of a silver watch and two shillings. The prosecutor lost his right eye by the blow. *Guilty.*

John White, removed by Habeas-corpus from the county gaol in Surrey, charged with a robbery in this county. *Guilty*, to the value of 39s.

James Howel, was indicted for stealing a silver watch, from Robert Tarrant; a silver watch, and a pair of silver buckles, from James Leake; and a silver watch, from Robert Beale. *Guilty*, to the value of 39s.

Thomas Wells, was indicted for stealing eight or more iron strakes, for waggon wheels, from Richard Groombridge, of West Farleigh. *Guilty*, of stealing, but not privately.

Susanna Brown, was indicted for stealing out of the dwelling house of John King, in Rochester, five linen gowns, eight handkerchiefs, &c. &c. *Guilty.*

Joseph Angell, was indicted for stealing out of the house of John Baldock, in Milton, a silver pint mug. *Guilty*, to the value of 39s.

Edmund Clarke, was indicted for assaulting and ill-treating Catharine Keele, in Deptford. *Guilty.*

John Oliver, and **William Blakeman**, were indicted for stealing out of the shop of James Shield, in Woolwich, four pair of silver buckles, and two odd silver buckles. *Oliver, Guilty. Blakeman remains on bail.*

Lydia Elzee, was indicted for stealing out of the house of Thomas Saunders, two silver spoons, &c. &c. *Discharged by Proclamation.*

F I N I S.

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